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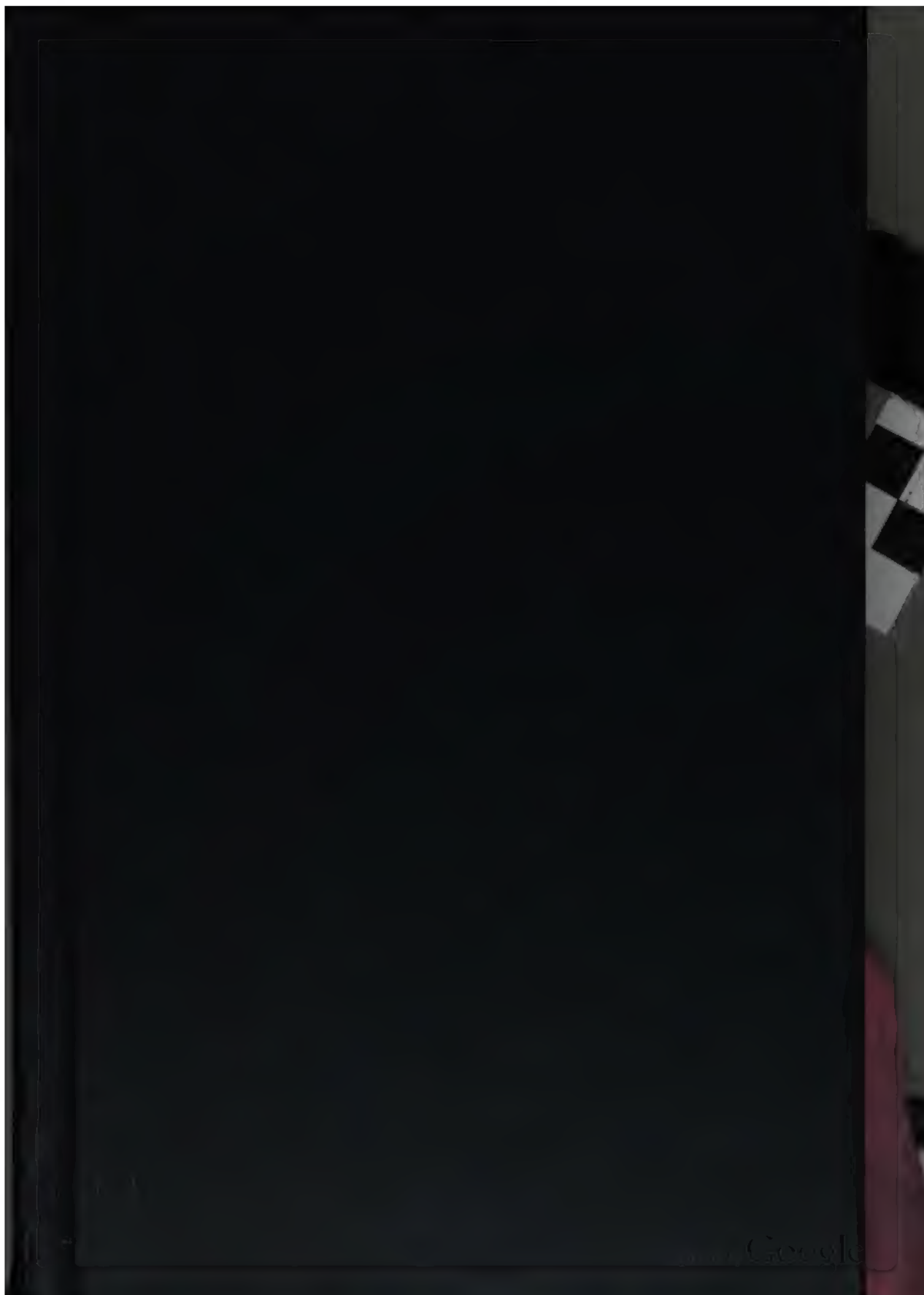
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# FEDERAL ELECTION CAMPAIGN ACT OF 1973

## HEARINGS BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS OF THE COMMITTEE ON COMMERCE UNITED STATES SENATE NINETY THIRD CONGRESS

FIRST SESSION

1973

### S. 372

TO AMEND THE COMMUNICATIONS ACT OF 1934 TO RELIEVE  
BROADCASTERS OF THE EQUAL TIME REQUIREMENT OF  
SECTION 316 WITH RESPECT TO PRESIDENTIAL AND VICE  
PRESIDENTIAL CANDIDATES AND TO AMEND THE CAMPAIGN  
COMMUNICATIONS REFORM ACT TO PROVIDE A FURTHER  
LIMITATION ON EXPENDITURES IN ELECTION CAMPAIGNS  
FOR FEDERAL ELECTIVE OFFICE

MARCH 7, 9, AND 12, 1973

Serial No. 93-4

Printed for the use of the Committee on Commerce





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UNITED STATES SENATE  
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FIRST SESSION  
ON  
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## FEDERAL ELECTION CAMPAIGN ACT OF 1973

WEDNESDAY, MARCH 7, 1973

U.S. SENATE,  
COMMITTEE ON COMMERCE,  
COMMUNICATIONS SUBCOMMITTEE,  
*Washington, D.C.*

The subcommittee met at 10:03 a.m. in room 5110, New Senate Office Building, Hon. John O. Pastore (chairman of the subcommittee) presiding.

### OPENING STATEMENT BY SENATOR PASTORE

Senator PASTORE. This hearing will please come to order.

Today, the committee returns to a subject which has greatly concerned Congress and our electorate over the past few years—the spiraling cost of campaigning for Federal elective office.

“The Federal Election Campaign Act of 1971” was the first major attempt to deal with this problem in almost 50 years. Among the things that legislation did was place an overall spending limitation on the amount of money candidates for Federal elective office and their supporters could spend on radio, television, some forms of the printed media, and certain uses of telephones. The law was applicable during the 1972 elections.

While the committee has received no information which would indicate the candidates were unable to campaign within the spending limitations of the 1971 law, it is already apparent that stricter limitations are necessary if we are to stop escalating campaign costs.

Although final figures on what individual candidates spent in the recent elections are not yet available, some estimates and interim reports have been available for months.

I would like to quote from an article appearing in the November 18 edition of the New York Times entitled, “Campaign Spending in 1972 Hits Record \$400 Million”:

By all estimates, when the final official campaign contributions and expenditure figures are computed and published on January 31, the 1972 elections at all levels will prove to have been roughly a \$400-million enterprise, up \$100-million from the record \$300-million estimated to have been spent in 1968.

That article goes on to say that overall estimates place the cost of the 1972 Presidential campaign at \$100 million with another \$100 million for the Senate and House races.

Specifically, according to that article, based on filings required by State law, a successful U.S. senatorial candidate spent \$2.5 million

Staff members assigned to these hearings: Nicholas Zapple and John D. Hardy.



on his own campaign. And existing data now on file with the Secretary of the Senate indicates that substantial sums had been spent by senatorial candidates in other States.

The task we began with enactment of the Campaign Act of 1971 obviously has not been completed. Even though candidates may not have exceeded their spending limitations, overall campaign costs are still higher than they were in prior years when there was no limitation. Suspicion about the integrity of the elective offices being sought remains, therefore, and the democratic process suffers because the voter becomes cynical. In my judgment, his cynicism is not without cause when millions of dollars are spent for an office which pays only \$42,500 annually.

These huge expenditures should not, of course, reflect adversely on the distinguished men and women who have sought Federal office. In any election campaign, there is a very human and understandable reaction—if a candidate puts up another billboard sign, his adversary feels compelled to do likewise.

And the perennial rise in the cost of goods and services exacerbates the situation.

Nevertheless, a solution to the problem must be found, and that is why the committee is beginning hearings today on S. 372, which I ask to be placed in the record at this point.

(The bills follow:)

98<sup>th</sup> CONGRESS  
1<sup>st</sup> Session

# S. 372

## IN THE SENATE OF THE UNITED STATES

JANUARY 16, 1973

Mr. PASTORE introduced the following bill; which was read twice and referred to the Committee on Commerce

JANUARY 23, 1973

Referred to the Committees on Commerce and Rules and Administration, jointly, with instructions

## A BILL

To amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to presidential and vice presidential candidates and to amend the Campaign Communications Reform Act to provide a further limitation on expenditures in election campaigns for Federal elective office.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That this Act may be cited as the "Federal Election Cam-  
4 paign Act of 1973".

5 SEC. 2. Section 315 (a) of the Communications Act of  
6 1934 (47 U.S.C. 315 (a)) is amended by inserting after  
7 "public office" in the first sentence thereof the following:  
8 " , other than the office of President or Vice President,".

II—O



1        SEC. 3. (a) Section 102 (1) of the Campaign Commu-  
2        nications Reform Act is amended to read as follows:

3        “ (1) The term ‘expenditure’ means—

4                “ (A) a purchase, payment, distribution, loan, ad-  
5        vance, deposit, or gift of money or anything of value (ex-  
6        cept a loan of money by a National or State bank made  
7        in accordance with the applicable banking laws and reg-  
8        ulations and in the ordinary course of business, or those  
9        who volunteer to work on behalf of a candidate), made  
10       for the purpose of influencing the nomination for election,  
11       or election, of any person to Federal office, for the pur-  
12       pose of influencing the result of a primary held for the  
13       selection of delegates to a national nominating conven-  
14       tion of a political party or for the expression of a pref-  
15       erence for the nomination of persons for election to the  
16       office of President, or for the purpose of influencing the  
17       election of delegates to a constitutional convention for  
18       proposing amendments to the Constitution of the United  
19       States;

20               “ (B) a contract, promise, or agreement, express or  
21       implied, whether or not legally enforceable, to make  
22       any expenditure; and

23               “ (C) a transfer of funds between political com-  
24       mittees.”

25       (b) Section 102 (5) of the Campaign Communications

1 Reform Act is amended by inserting the following before the  
2 period: “, as determined by the Bureau of the Census as  
3 of the 1st day of June of the year preceding the year of the  
4 election”.

5 SEC. 4. Section 104 of the Campaign Communications  
6 Reform Act is amended to read as follows:

7 “LIMITATION ON EXPENDITURES

8 “SEC. 104. (a) No candidate (other than a candidate  
9 for presidential nomination) may make expenditures in con-  
10 nection with his campaign for nomination for election, or elec-  
11 tion, to a Federal office in excess of 25 cents multiplied by  
12 the voting age population (as certified under subsection (e))  
13 of the geographical area in which the election for such office  
14 is held. The limitation on expenditures imposed by this sub-  
15 section shall apply separately to each primary, primary run-  
16 off, general, and special election campaign in which a candi-  
17 date participates.

18 “(b) No candidate for presidential nomination may  
19 make expenditures in any State in connection with his cam-  
20 paign for such nomination in excess of the amount which a  
21 candidate for nomination for election as United States Sen-  
22 ator from that State (or for election as Delegate or Resident  
23 Commissioner in the case of the District of Columbia or the  
24 Commonwealth of Puerto Rico, respectively) might expend  
25 within the State in connection with his campaign for that

1 nomination. For purposes of this subsection, an individual is  
 2 a candidate for presidential nomination if he makes (or any  
 3 other person makes on his behalf) an expenditure on behalf  
 4 of his candidacy for any political party's nomination for elec-  
 5 tion to the office of President. He shall be considered to be  
 6 such a candidate during the period—

7       “(1) beginning on the date on which he (or such  
 8 other person) first makes an expenditure (or, if later, on  
 9 January 1 of the year in which the election for the office  
 10 of President is held), and

11       “(2) ending on the date on which such political  
 12 party nominates a candidate for the office of President.  
 13 For purposes of this title and of section 315 of the Com-  
 14 munications Act of 1934, a candidate for presidential nomi-  
 15 nation (as determined under the preceding sentence) shall  
 16 be considered a legally qualified candidate for public office.

17       “(c) Expenditures made on behalf of any candidate  
 18 shall, for the purpose of this section, be deemed to have  
 19 been expended by such candidate. Expenditures made on  
 20 behalf of any candidate for the office of Vice President of  
 21 the United States shall, for the purpose of this section, be  
 22 deemed to have been made by the candidate for the office  
 23 of President of the United States with whom he is running.

24       “(d) (1) For purposes of paragraph (2):

25       “(A) The term ‘price index’ means the average

1 over a calendar year of the Consumer Price Index (all  
2 items—United States city average) published monthly  
3 by the Bureau of Labor Statistics.

4 “(B) The term ‘base period’ means the calendar  
5 year 1970.

6 “(2) At the beginning of each calendar year (com-  
7 mencing in 1974), as there becomes available necessary data  
8 from the Bureau of Labor Statistics of the Department of  
9 Labor, the Secretary of Labor shall certify to the Attorney  
10 General and publish in the Federal Register the per centum  
11 difference between the price index for the twelve months  
12 preceding the beginning of such calendar year and the price  
13 index for the base period. Each amount determined under  
14 subsection (a) shall be increased by such per centum differ-  
15 ence. Each amount so increased shall be the amount in  
16 effect for such calendar year.

17 “(c) Within sixty days after the date of enactment of  
18 this subsection, and during the first week of January 1974,  
19 and every subsequent year, the Secretary of Commerce shall  
20 certify to the Comptroller General and publish in the Federal  
21 Register an estimate of the voting age population of each  
22 State and congressional district as of the 1st day of June  
23 next preceding the date of certification.

24 “(f) No person shall make any charge for services or  
25 products furnished to, or for the benefit of, any candidate in

1 than \$5,000 or by imprisonment of not more than five years,  
2 or both."

3 SEC. 7. Subsections (c), (d), (e), and (f) of section  
4 315 of the Communications Act of 1934 are repealed and  
5 subsection (g) of such section is redesignated as subsection  
6 (e).

# S. 1095

## IN THE SENATE OF THE UNITED STATES

MARCH 6, 1973

Mr. SCOTT of Pennsylvania (for himself and Mr. MATHEWS) introduced the following bill; which was read twice and referred to the Committee on Commerce

## A BILL

To amend the Communications Act of 1934 with respect to the application of the equal time provisions of section 315 to candidates for Federal elective office, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

That section 315 (a) of the Communications Act of 1934 is amended by inserting “, other than a candidate for Federal elective office (including the Vice Presidency),” after “any public office”.

SEC. 2. (a) Section 102 (4) of the Campaign Communications Reform Act is amended by—

(1) striking “and”, and

(2) inserting before the period the following: “, and



1 (C) has publicly announced his candidacy for such office,  
2 or has knowledge or information that any other person  
3 or political committee has received contributions or made  
4 expenditures for the purpose of bringing about his nom-  
5 ination for election, or election, to such an office and has  
6 not notified that person or political committee in writing  
7 to cease receiving such contributions or making such  
8 expenditures.”

9 (b) Section 315 (f) (2) of the Communications Act of  
10 1934 is amended by—

11 (1) striking “and”; and

12 (2) inserting before the period the following: “, and

13 (C) has publicly announced his candidacy for such  
14 office, or has knowledge or information that any other  
15 person or political committee has received contributions  
16 or made expenditures for the purpose of bringing about  
17 his nomination for election, or election, to such an office  
18 and has not notified that person or political committee  
19 in writing to cease receiving such contributions or mak-  
20 ing such expenditures.”

21 SEC. 3. The Federal Communications Commission shall  
22 study the effects of the amendments made by this Act, par-  
23 ticularly with respect to the application of section 315 of  
24 the Communications Act of 1934 to circumstances arising  
25 in connection with campaigns for nomination for election,

1 and campaigns for election, to Federal office at the elections  
2 held in November 1974, and November 1976. The Com-  
3 mission shall report to the Congress the results of its study,  
4 including its findings and conclusions, and any recommenda-  
5 tions it may have—

6 (1) in a preliminary report submitted to the Con-  
7 gress not later than December 31, 1974, and covering  
8 the period beginning on the date of enactment of this  
9 Act and ending on November 30 of that year, and

10 (2) in a final report submitted to the Congress not  
11 later than December 31, 1976, and covering the period  
12 beginning on the date of enactment of this Act and end-  
13 ing on November 30 of that year.

93d CONGRESS  
1st Session

# S. 1103

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## IN THE SENATE OF THE UNITED STATES

MARCH 6, 1973

Mr. HART introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

---

## A BILL

To provide for public financing of campaigns for nomination for election, or election, to the Congress of the United States.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That this Act may be cited as the "Congressional Election  
4 Finance Act of 1973".

### 5 DECLARATION OF PURPOSE

6 SEC. 2: It is the purpose of this Act—

7 (1) to provide public financing of certain costs  
8 incurred by candidates campaigning for nomination for  
9 election, or for election, to Congress, thereby increasing  
10 the opportunities for meaningful participation in such

electorial contests without regard to the financial resources available to individual candidates;

(2) to prevent the relatively few individuals who have access to great wealth from having an excessive influence upon the presentation of competing viewpoints within the political process and from preempting the channels of mass communication as candidates or as contributors;

(3) to provide for a determination of the extent to which present expenditure levels in congressional election campaigns may be substantially higher than necessary for the conduct of a competitive, informative, and effective campaign; and

(4) to reduce the pressure on congressional candidates for dependence upon large campaign contributions from private sources due to unprecedented campaign expenditure levels and the absence of public financial assistance.

#### DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Board" means the Congressional Election Finance Board established under section 5;

(2) "campaign expenditure" means any expendi-

1        ture incurred by a candidate or any person acting on his  
2        behalf in connection with his campaign for nomination  
3        for election, or for election to congressional office during  
4        the campaign expenditure period and any such expense  
5        incurred prior to the campaign expenditure period for  
6        goods or services to be used or rendered during such  
7        period. The term "campaign expenditure" shall include  
8        amounts expended to qualify as a candidate under State  
9        election law including fees, but shall not include any  
10       amounts posted as security under section 7 (a) (2) ;

11        (3) "campaign expenditure period" means the  
12       eighteen-month period preceding the date of the general  
13       election for the office which a candidate seeks;

14        (4) "candidate" means an individual who has taken  
15       the steps necessary under applicable law to qualify to  
16       have his name appear on a ballot for nomination for  
17       election, or for election, to the Congress as a Senator,  
18       Representative, Delegate, or Resident Commissioner;

19        (5) "Candidate Campaign Account" means one  
20       bank account established by a candidate for congress-  
21       sional office in a bank insured by the Federal Deposit  
22       Insurance Corporation for the sole purpose of receiving  
23       subsidy payments from the Fund and contributions or  
24       other moneys raised from personal resources;

1           (6) "congressional office" means the office of Sena-  
2       tor or Representative in or Resident Commissioner or  
3       Delegate to, the Congress of the United States;

4           (7) "contribution" means any—

5               (A) payment, distribution, loan guaranty, de-  
6       posit, or gift of money or anything else of value, to  
7       a candidate, his agent, or political committee;

8               (B) payment by any person other than the  
9       candidate, his agents, authorized agents, or political  
10      committees, of compensation for the personal serv-  
11      ices of another person which are rendered to a can-  
12      didate's campaign;

13              (C) goods, advertising, or services furnished  
14      to a candidate's campaign without charge, or at a  
15      rate which is less than the rate normally charged for  
16      such goods or services;

17              (D) payment by any person other than the  
18      candidate, his authorized agents, or political com-  
19      mittees for any goods, or services used by a candi-  
20      date's campaign;

21              (E) expenditure in connection with any other  
22      activity undertaken independently of the candidate's  
23      campaign,  
24      made or furnished for the purpose of influencing the re-  
25      sults of a primary for the nomination for election, or the

1 results of an election to congressional office, or for the  
2 purpose of paying obligations incurred in connection with  
3 such elections.

4 The term "contribution" shall not be construed to  
5 include—

6 (A) personal services provided without compensa-  
7 tion by individuals volunteering a portion or all of their  
8 time on behalf of a candidate or political committee,

9 (B) communications by any organization, exclud-  
10 ing a political party solely to its members and their  
11 families on any subject,

12 (C) communications (including advertisements) to  
13 any person on any subject by any organization which is  
14 organized solely as an issue-oriented organization, which  
15 communications neither endorse nor oppose any candi-  
16 date for congressional office, and

17 (D) normal billing credit for a period not exceeding  
18 thirty days.

19 (8) "fund" means the Congressional Campaign  
20 Assistance Fund established under section 4;

21 (9) "major party" means—

22 (A) a political party whose candidate received  
23 25 per centum or more of the total number of  
24 votes cast for all candidates in any determining  
25 election; or

1 (B) a candidate not affiliated with a political  
2 party who, as such a candidate, "received 25 per  
3 centum or more of the total number of votes cast  
4 for all candidates in the next preceding general  
5 election for the same office as the election for which  
6 campaign assistance is sought under this Act;

7 (10) "minor party" means—

8 (A) a political party whose candidate received  
9 10 per centum or more (but less than 25 per  
10 centum) of the total number of votes cast for all  
11 candidates in any determining election; or

12 (B) any candidate not affiliated with a political  
13 party who, as such a candidate, received 5 per  
14 centum or more (but less than 25 per centum of  
15 the total votes cast in the next preceding general  
16 election for the same office as the election for which  
17 campaign assistance is sought under this Act;

18 (11) "determining election" means—

19 (A) in the case of a candidate for nomination  
20 for election, or for election, as a Representative,  
21 Delegate, or Resident Commissioner, the most  
22 recent general election held for the election of a  
23 Representative in the district from which the can-  
24 didate seeks election, or the most recent gubernato-  
25 rial election held in the State in which that district



1 is located, or the most recent presidential election;

2 (B) in the case of a candidate for nomination  
3 for election, or for election, to the office of Senator,  
4 the most recent gubernatorial election held in the  
5 State in which he seeks election, or the most recent  
6 presidential election;

7 (12) "party campaign account" means one bank  
8 account established by a national committee or the State  
9 central committee of a political party for the sole pur-  
10 pose of receiving contributions for distribution to con-  
11 gressional candidates under this Act;

12 (13) "person" means individual, partnership, com-  
13 pany, association, firm, society, or other organization  
14 or group of persons which may lawfully make a politi-  
15 cal contribution under the laws of the United States and  
16 under applicable State law. An organization, and any  
17 parent, subsidiary, affiliate, or regional branch of such  
18 organization shall constitute one "person" for purposes  
19 of this Act;

20 (14) "personal resources of the candidate" means  
21 personal funds or property of the candidate and the per-  
22 sonal funds or property of his immediate family;

23 (15) "immediate family" means any child, parent,  
24 grandparent, brother, sister, or spouse of the candidate,  
25 any dependent of the candidate or of his spouse as defined

1 by the Internal Revenue Code of 1954, and the spouse  
2 of any such individuals;

3 (16) "State" means each of the United States, the  
4 District of Columbia, Puerto Rico, Guam, and the Vir-  
5 gin Islands; and

6 (17) "voting age population" means resident pop-  
7 ulation, eighteen years of age or older. Within sixty  
8 days after the date of enactment of this Act, and dur-  
9 ing the first week of January 1974, and every year  
10 thereafter, the Secretary of Commerce shall certify to  
11 the Commission and publish in the Federal Register  
12 an estimate of the voting age population of each State  
13 and congressional district for the last calendar year  
14 ending before the date of certification.

15 **ESTABLISHMENT OF FUND**

16 **SEC. 4.** There is established within the Treasury a trust  
17 fund to be known as the "Congressional Campaign As-  
18 sistance Fund". There is appropriated to the fund \$500,000,-  
19 000 out of amounts in the general fund of the Treasury not  
20 otherwise appropriated. Any money in the fund not needed  
21 for current operation shall be invested in bonds or other  
22 obligations of, or guaranteed by, the United States. The  
23 fund shall remain available without fiscal year limitation  
24 and shall consist of such amounts as may be appropriated to  
25 it, any interest or other receipts on investments, and amounts

1 otherwise covered into the fund by the Board under this  
2 Act. No amounts shall be transferred out of the fund except  
3 as may be provided in appropriation Acts.

#### 4 ESTABLISHMENT OF BOARD

5 SEC. 5. (a) There is established a Congressional Elec-  
6 tion Finance Board which shall be composed of seven mem-  
7 bers, not more than three of whom shall be affiliated with  
8 the same political party. Members of the Board shall be  
9 appointed by the President by and with the advice and  
10 consent of the Senate, for a term of six years, except that,  
11 of the members first appointed to serve—

12 (1) three shall be appointed for terms of two years,

13 (2) two shall be appointed for terms of four years,

14 and

15 (3) two shall be appointed for terms of six years.

16 Any individual appointed to fill a vacancy occurring for  
17 reasons other than expiration of a term shall be appointed  
18 only for the unexpired term of the member whom he suc-  
19 ceeds. A member whose term expires shall continue to serve  
20 until his successor qualifies.

21 (b) The members of the Board shall elect a Chairman  
22 and Vice Chairman from among their members to serve  
23 for terms of two years each. No member elected to be  
24 Chairman or Vice Chairman may succeed himself in such  
25 office. The Chairman shall be responsible on behalf of the

1 Board for administrative operations of the Board and shall  
2 appoint and fix the compensation of such officers and em-  
3 ployees as he deems necessary to assist the Board in the  
4 performance of its functions. The Board may obtain the  
5 services of experts and consultants in accordance with the  
6 provisions of section 3109 of title 5, United States Code.  
7 The Vice Chairman shall act as Chairman in the absence or  
8 disability of the Chairman or in the event of a vacancy in  
9 that office.

10 (c) A vacancy in the Board shall not impair the right  
11 of the remaining members to exercise the power of the  
12 Board. Three members of the Board shall constitute a  
13 quorum.

14 (d) The Board shall have an official seal which shall  
15 be judicially noticed.

16 (e) At the close of each fiscal year the Board shall re-  
17 port to the Congress and to the President concerning its  
18 activities and operations during that fiscal year, including  
19 the names, salaries, and duties of all individuals employed by  
20 it and the moneys it has disbursed. The Board may make  
21 such additional reports to the Congress and to the President  
22 on the matters within its jurisdiction, including recommenda-  
23 tions for additional legislation, as it deems desirable.

24 (f) Section 5314 of title 5, United States Code, is  
25 amended by adding at the end thereof the following:

1           “(60) Members, Congressional Election Finance  
2     Board.”

3           (g) The principal office of the Board shall be in or near  
4 the District of Columbia, but it may meet or exercise any  
5 of its powers at any other place and, during election cam-  
6 paigns, establish field operations in such locations as it deems  
7 appropriate.

8                           DUTIES AND POWERS

9     SEC. 6. (a) It shall be the duty of the Board—

10           (1) to develop forms for the making of such re-  
11 ports and statements as it may require;

12           (2) to prepare and publish a manual setting forth  
13 recommended uniform methods of bookkeeping and re-  
14 porting for use by persons required to make reports and  
15 statements under this Act;

16           (3) to develop a filing, coding, and cross-index-  
17 ing system consistent with the purposes of this Act;

18           (4) to make the reports and statements filed with  
19 it available for public inspection and copying during  
20 regular office hours, and to permit copying by hand, or  
21 by copying machine at the expense of the individual re-  
22 questing the copies;

23           (5) to preserve such reports and statements for a  
24 period of ten years from the date of receipt; and

25           (6) to do such other things as may be necessary  
26 to carry out the provisions of this Act.

1       (b) In carrying out its duties under subsection (a),  
2 the Board shall consult with the Comptroller General, the  
3 Secretary of the Senate, and the Clerk of the House of Repre-  
4 sentatives, and utilize the reporting, filing, and accounting  
5 procedures and forms developed by them in carrying out their  
6 duties under title III of the Federal Election Campaign  
7 Reform Act of 1971 to the greatest extent possible. To the  
8 extent the Board determines that its duties under this Act  
9 can be satisfactorily performed by using the data available  
10 to the Secretary of the Senate and the Clerk of the House  
11 of Representatives, it shall not require additional or separate  
12 reports to be made to it by any candidate who is complying  
13 with the provisions of title III of that Act.

14       (c) The Board is authorized to prescribe such rules and  
15 regulations, to conduct such examinations, and investigations,  
16 and to require the keeping of such books, records, and infor-  
17 mation, as it deems necessary to carry out the functions and  
18 duties imposed on it by this Act. Within one hundred and  
19 eighty days of the general election, the Board shall conduct a  
20 complete examination and audit of the expenditures made,  
21 expenses incurred, and financial assistance received by or on  
22 behalf of any candidate who has received assistance under  
23 this Act in connection with his primary or general election  
24 campaign, and shall furnish to the Congress and the President  
25 a report of the results of each such examination and audit.

1 (d) If the Board determines on the record after an  
2 opportunity for a hearing that any portion of the amount  
3 transferred out of the fund to the account of a candidate  
4 was in excess of the aggregate amount to which that  
5 candidate was entitled under this Act, it shall require the  
6 candidate to pay to the Board for covering into the fund  
7 an amount equal to such excess less any amounts paid to  
8 the Board under section 11 (f). No determination of an  
9 overpayment shall be made initially more than one year  
10 after the date of such overpayment.

11 (e) In exercising its authority under this Act, the  
12 Board is authorized

13 (1) to compel the attendance of any person to  
14 answer questions under oath relating to the financial  
15 matters of any campaign for which transfers have been  
16 received from the fund or relating to any proceeding  
17 under section 14; and

18 (2) to compel under oath the production for in-  
19 spection or copying of documents, papers, books, rec-  
20 ords, or other writing relating to the financial matters  
21 of any campaign for which transfers have been received  
22 from the fund or relating to any proceeding under  
23 section 14.

24 Any district court of the United States within the juris-  
25 diction of which such person is found, or is doing business,

1 shall issue an order, on conditions it deems just, requiring  
2 compliance with a valid order of the Board issued under  
3 this subsection upon petition by the Board or on a motion  
4 to quash by such person.

5 (f) The Board shall report suspected violations of this  
6 Act or any other related statutes to the appropriate law  
7 enforcement authority.

8 **ELIGIBILITY FOR ASSISTANCE**

9 **SEC. 7.** (a) In order to be eligible to receive amounts  
10 from the fund, a candidate shall—

11 (1) file with the Board, at such time and in such  
12 manner as it shall require (but not sooner than Janu-  
13 ary 1 of the year in which the election for which he  
14 seeks a campaign subsidy is to be held or three months  
15 before the primary election for that office, whichever  
16 is earlier) a sworn statement in which he agrees—

17 (A) to maintain and make available to the  
18 Board such records, books, and other information  
19 as the Board may require;

20 (B) to forfeit to the fund the security furnished  
21 under paragraph (2) if he fails to receive at least  
22 10 per centum of the votes cast in the primary in  
23 which he was a candidate, or the votes cast for all  
24 candidates in the general election (as the case may  
25 be).



1 (C) to repay into the fund the aggregate  
2 amount of transfers made to his account from the  
3 fund if he fails to receive at least 5 per centum of  
4 the votes cast in the primary in which he was a  
5 candidate or the votes cast for all candidates in the  
6 general election (as the case may be).

7 (2) furnish the Board a security deposit in an  
8 amount equal to one-fifth of the amount of the subsidy  
9 which he is entitled to receive from the fund in connec-  
10 tion with the election for which he requests assistance  
11 (but in no event to be less than \$3,000). The security  
12 deposit posted under this paragraph is forfeitable to the  
13 Board in the event he fails to make a payment required  
14 under paragraph (1). A candidate who, having posted  
15 security in connection with a party primary election  
16 and having won such primary, is the nominee for elec-  
17 tion of that party, may ask the Board to retain his secu-  
18 rity in satisfaction of this paragraph for the receipt of  
19 subsidies in the general election. The Board shall retain  
20 and accept such security for this purpose without any  
21 increase being made in the amount of the security;

22 (3) furnish the Board with evidence satisfactory  
23 to the Board that he has qualified under applicable laws  
24 for nomination and election to the office which he seeks;

25 (4) furnish the Board, in a form prescribed by the

1 Board, a sworn statement of all campaign expenditures  
2 made prior to the date of such statement and all contri-  
3 butions received which have been used for campaign  
4 expenditures or which remain available for campaign  
5 expenditures. The statement shall include the date,  
6 amount and nature of each expenditure, the date and  
7 amount of each contribution, and the name, address and,  
8 in the case of individuals, the occupation of each con-  
9 tributor. The statement shall also list each amount of the  
10 personal resources of the candidate which have been  
11 used for campaign expenditures or which remain avail-  
12 able for campaign expenditures, the date such amount  
13 was made available and the source of the amount; and

14 (5) furnish in a separate statement, with the infor-  
15 mation required by paragraph (4), all of the contribu-  
16 tions and personal resources used to post the security  
17 deposit under this section. After the election, if the bond  
18 is not forfeited to the fund pursuant to paragraph (1),  
19 the Board shall return to those contributors and sources  
20 of personal resources an amount of money equal to their  
21 respective contributions.

22 (b) No candidate shall be eligible to receive transfers to  
23 his account from the fund if he has been convicted of violat-  
24 ing any provision of this Act, the Federal Election Campaign

1 Act of 1971, or the Presidential Election Campaign Fund  
2 Act.

3 (c) No candidate shall be eligible to receive transfers to  
4 his account from the fund in connection with his general  
5 election campaign unless—

6 (1) he received such transfers in connection with  
7 his primary election campaign, or

8 (2) he was not a candidate for nomination for  
9 election in any primary election held for the selection of  
10 candidates for election to the office to which he seeks  
11 election.

12 (d) Any candidate who has received transfers to his  
13 account from the fund in connection with his primary cam-  
14 paign shall be subject to the provisions of this Act, in any  
15 general election campaign for the same office, without regard  
16 to whether he seeks transfers in connection with the general  
17 election.

18 (e) The Board shall promptly notify any candidate who  
19 applies for assistance from the fund if he is eligible to receive  
20 transfers from the fund, together with a verification of the  
21 total amount to which he is entitled in connection with his  
22 primary election campaign and the total amount which he  
23 would be entitled in connection with his general election  
24 campaign, should he be nominated in the primary.

1                    **PAYMENTS FROM THE FUND**

2            **SEC. 8. (a)** Upon application made by a qualified candi-  
3    date, the Board shall transfer to the bank account designated  
4    by the candidate, the amount to which he is entitled from the  
5    fund for payment of his campaign expenses. The amount to  
6    which a candidate is entitled shall be transferred in approxi-  
7    mately equal installments paid not less frequently than  
8    monthly during the period beginning on the date the candi-  
9    date is notified of his eligibility and ending on the date of  
10   the election. Amounts determined under section 10 (d) shall  
11   be transferred not later than thirty days after the date of  
12   the appropriate election.

13            (b) The Board may, upon demonstration of reasonable  
14   need by the candidate under procedures prescribed by the  
15   Board, make transfers to the candidate from the fund in  
16   uneven amounts as requested by the candidate.

17            (c) Prior to receipt of the second, and any subsequent  
18   transfers from the fund to the candidate's account under sec-  
19   tion 8 (a), the candidate shall furnish the Board with a re-  
20   port of all contributions received, all amounts made available  
21   from the candidate's personal resources to the campaign, and  
22   all expenditures made since the last report. The report shall  
23   include the same information regarding each such expendi-  
24   ture, contribution, and amount made available from the per-

1 sonal resources of the candidate as is required in the appli-  
2 cation for subsidies under section 7 (a) (4).

3 (d) If, on the date a candidate for nomination for elec-  
4 tion to congressional office becomes eligible for transfers  
5 from the fund, no other candidate has qualified for that pri-  
6 mary under State law, the eligible candidate shall receive in  
7 the manner prescribed by subsections (a), (b), and (c),  
8 no more than one-third of the subsidy to which he is entitled  
9 under section 10. If, at any subsequent time prior to the  
10 deadline for filing, another person qualifies under State law  
11 to oppose him, then the Board shall transfer, in the same  
12 manner, the remaining two-thirds of the subsidy to which  
13 the eligible candidate is entitled. No candidate who receives  
14 subsidies under this Act, nor anyone acting on his behalf,  
15 shall procure the candidacy of another as an opponent.

16 (e) Whenever the Board determines that amounts re-  
17 maining in, or available to, the fund will be, or may be ex-  
18 pected to be, inadequate to meet obligations arising under  
19 this section, it shall—

20 (1) advise the Congress of its determination, to-  
21 gether with a recommendation concerning the amount  
22 which must be added to the fund in order to meet fully  
23 such obligations during the current fiscal year; and

24 (2) notify by registered or certified mail each can-  
25 didate currently entitled to receive transfers from the

1 fund that the amount which is available to him under  
2 the provisions of this title may be reduced.

3 (e) Whenever the Board makes a determination under  
4 subsection (c), it shall reduce the amount available for  
5 transfer to the account of each candidate by a percentage  
6 equal to the percentage obtained by dividing (1) the total  
7 amount to which all qualified candidates who have made  
8 application at the time of such determination to receive  
9 amounts from the fund are entitled (less any amounts al-  
10 ready transferred at such time to such candidates) into (2)  
11 the amount remaining in the fund at the time of such de-  
12 termination. If additional qualified candidates make applica-  
13 tion thereafter, the Board shall make such further reductions  
14 in amounts transferable as it deems necessary to carry out  
15 the purposes of this Act. The Board shall notify such can-  
16 didates by registered mail of the reduced amounts avail-  
17 able to them. If, as a result of a reduction under this sub-  
18 section in the amount available to any candidate, transfers  
19 have been made from the fund to the candidate's account  
20 in excess of the amount to which he is entitled, such can-  
21 didate shall be liable for repayment to the fund of the excess  
22 under such procedures as the Board may prescribe by reg-  
23 ulation. If it is necessary to reduce the amount transferable  
24 out of the fund to a candidate's account, the Board shall

## II

1 increase the amounts which that candidate may receive as  
2 contributions under section 11 (b), (c), or (d) by an  
3 amount equal to the amount of the reduction.

4 PAYMENTS FROM CANDIDATES ACCOUNTS

5 SEC. 9. (a) Each candidate making application for the  
6 transfer of money from the fund to his account under sec-  
7 tion (8) shall establish a single candidate campaign ac-  
8 count in a bank insured by the Federal Deposit Insurance  
9 Corporation for the sole purpose of receiving transfers from  
10 the fund and private moneys received for use in the cam-  
11 paign and for making campaign expenditures.

12 (b) All payments received from the fund, and all con-  
13 tributions or personal resources of the candidate to be used  
14 for campaign expenditures shall be deposited in the candi-  
15 date campaign account. Each deposit made in the account  
16 shall be accompanied by a short statement, in the form pre-  
17 scribed by the Board, showing each payment from the fund,  
18 contribution or amount of personal resources deposited, the  
19 date each contribution was received and each amount of  
20 personal resources was made available, and the name, address,  
21 and, in the case of individuals, occupation of each contributor  
22 and of the source of the personal resources. The statement  
23 shall be verified as to the amounts deposited by the deposi-  
24 tory and then transmitted to the Board within fourteen days

1 after the deposit is made. The depository shall furnish to  
2 the Board at least every fourteen days a statement of all  
3 withdrawals made from the account.

4 (c) The candidate shall designate for purposes of this  
5 Act by writing, filed with the Board, an individual or indi-  
6 viduals (not to exceed three) who shall be authorized, in  
7 addition to the candidate, to withdraw funds from the cam-  
8 paign account and who each shall share responsibility with  
9 the candidate, jointly and individually, for compliance with  
10 the provisions of this Act.

11 (d) No person authorized to make withdrawals from  
12 the candidate campaign account shall pay any amount  
13 out of that account for goods or services furnished, other  
14 than staff salaries, except upon the presentation of an in-  
15 voice submitted by the person to whom the payment is to  
16 be made. The invoice shall describe the goods or services  
17 furnished to or for the benefit of the candidate, and shall be  
18 accompanied by a sworn statement executed by that person  
19 certifying that the charges are not in excess of amounts  
20 usually charged by him for similar goods and services, and  
21 containing such other information as may be required by  
22 the Board. Such invoices and statements shall be preserved  
23 by the candidate and made available for reasonable inspec-  
24 tion by employees of the Board. Copies of the invoices and  
25 statements shall be furnished to the Board upon request.



1           **DETERMINATION OF AMOUNTS TRANSFERABLE**

2           **SEC. 10. (a)** The amount which may be transferred  
3 out of the fund under section 8 to the account of a major  
4 party candidate for nomination for election, or election, to  
5 the office of Senator is—

6           (1) in connection with a primary election cam-  
7 paign, the greater of—

8           (A) 10 cents multiplied by the voting age  
9 population of the State from which he seeks to be  
10 nominated for election, or

11           (B) \$75,000;

12           (2) in connection with a general election campaign,  
13 the greater of—

14           (A) 15 cents multiplied by the voting age  
15 population of the State from which he seeks elec-  
16 tion, or

17           (B) \$150,000.

18           (b) (1) The amount which may be transferred out of  
19 the fund under section 8 of the account of a major party  
20 candidate for nomination for election to the office of Repre-  
21 sentative, Delegate, or Resident Commissioner in connection  
22 with his primary election campaign is an amount not in  
23 excess of 14 cents multiplied by the voting age population  
24 of the district in which he seeks nomination. The amount  
25 transferable out of the fund for the general election cam-

1 paign expenses of a candidate for election to such office  
 2 shall not exceed 20 cents multiplied by the voting age popu-  
 3 lation of the district from which he seeks election.

4 (2) A major party candidate for nomination for elec-  
 5 tion, or for election to the office of Representative in an at-  
 6 large district for an entire State shall be entitled to receive  
 7 the same amount which a candidate for Senator from that  
 8 State would be entitled to receive in connection with the  
 9 primary election or the general election (as the case may  
 10 be). An at-large candidate for Representative also is en-  
 11 titled to receive contributions and use personal resources pur-  
 12 suant to section 11 in an amount equal to the amount which  
 13 a candidate for Senator in that State would be entitled to  
 14 receive or use in a primary election or a general election (as  
 15 the case may be).

16 (c) (1) The amount transferable out of the fund to the  
 17 account of a minor party candidate shall not exceed the  
 18 greater of—

19 (A) one-fifth of the amount transferable under sec-  
 20 tion 8 to the account of a major party candidate for  
 21 nomination for election, or for election (as the case may  
 22 be) to the same office, or

23 (B) an amount which bears the same ratio to the  
 24 amount transferable under section 8 to the account of a  
 25 major party candidate for the nomination for election,

1 or for election (as the case may be) to the same office  
2 as the number of popular votes received by the candi-  
3 date of that minor party in the preceding general elec-  
4 tion for that office bears to the number of popular votes  
5 received by the candidate of the major party who re-  
6 ceived the lowest number of votes.

7 (2) The amount transferrable from the fund to the  
8 account of a candidate of any party who fails to qualify as  
9 either a major party candidate or a minor party candidate  
10 shall not exceed the greater of—

11 (A) one-tenth of the amount transferrable under  
12 section 8 to the account of a major party candidate for  
13 nomination for election, or for election (as the case may  
14 be) to the same office, or

15 (B) an amount which bears the same ratio to the  
16 amount transferrable under section 8 to the account of  
17 a major party candidate for the nomination for election,  
18 or for election, to (as the case may be) to the same  
19 office as the number of popular votes received by the  
20 candidate of applicant candidate's party in the preceding  
21 general election for that office bears to the number of  
22 popular votes received by the candidate of the major  
23 party who received the lowest number of votes.

24 (d) (1) A minor party candidate who receives more  
25 than 25 per centum of the total votes cast for all candidates

1 for nomination for election, or for election, to the office sought  
2 by the candidate may have additional amounts transferred  
3 out of the fund for campaign expenses incurred by him in  
4 connection with his campaign. The total amount of such  
5 additional transfers may not exceed the difference between  
6 the amount to which he was entitled as a minor party candi-  
7 date and the amount to which he would have been entitled  
8 had he been a major party candidate, reduced by the amount,  
9 if any, of contributions he received in accordance with section  
10 11 (f) which is in excess of the amount of contributions he  
11 could have received as a major party candidate under sub-  
12 section (d) or (e) of section 11.

13 (2) A candidate who does not qualify as a major party  
14 candidate or as a minor party candidate, but who receives  
15 10 per centum or more (but less than 25 per centum) of  
16 the total votes cast for all candidates for nomination for elec-  
17 tion, or for election, to the office sought by that candidate  
18 may have amounts transferred out of the fund to his account  
19 in an amount equal to the amount to which he would have  
20 been entitled had he been a minor party candidate. If such  
21 a candidate receives 25 per centum or more of the total  
22 votes so cast, he may have amounts transferred out of the  
23 fund in an amount equal to the amount to which he would  
24 have been entitled had he been considered a major party  
25 candidate.

1       (3) No amount shall be transferred under this subsec-  
2 tion to the account of any candidate in excess of the amount  
3 by which that candidate's outstanding campaign debts exceed  
4 the campaign funds available to that candidate other than  
5 under this subsection.

6       (e) The amount which may be transferred out of the  
7 fund under section 8 to the account of a candidate who is a  
8 candidate in a runoff election shall be an amount equal to the  
9 amount which was transferable to his account in connection  
10 with his campaign preceding the election which made the  
11 runoff election necessary, except that the determination of  
12 whether he is a major party candidate or a minor party candi-  
13 date shall be based upon the percentage of the vote received  
14 by him in that election.

15       (f) No amount in excess of 30 per centum of the  
16 amount transferred from the fund to a candidate's account for  
17 a particular election campaign shall be payable as salary, or  
18 reimbursement of personal expenses, to all persons employed  
19 by or on behalf of that candidate for purposes of that  
20 campaign.

21       (g) For the purpose of determining the amount which is  
22 transferable from the fund for any candidate who seeks nomi-  
23 nation for election or election to the House of Representatives  
24 from a district which has been established or whose bound-  
25 aries have been altered since the next preceding general

1 election for such office, the calculation of such amount shall  
2 be made by the Secretary based upon the number of votes  
3 cast in the next preceding general election for such office by  
4 voters residing within the area encompassed by the new or  
5 altered district.

6 (h) The amount made available from the fund for the  
7 payment of campaign expenses incurred in connection with  
8 a primary election campaign may not be expended for any  
9 debt incurred after the date on which such election is held.  
10 No amount made available for the payment of campaign ex-  
11 penses incurred in connection with a general election cam-  
12 paign may be expended for any debt incurred in connection  
13 with a primary election campaign.

14 (i) (1) For the purpose of paragraph (2)—

15 (A) The term “price index” means the average  
16 over a calendar year of the Consumer Price Index (all  
17 items—United States city average) compiled monthly  
18 by the Bureau of Labor Statistics.

19 (B) The term “base period” means the calendar  
20 year 1970.

21 (2) At the beginning of each calendar year (commenc-  
22 ing in 1974), as there becomes available necessary data  
23 from the Bureau of Labor Statistics of the Department of  
24 Labor, the Secretary of Labor shall certify to the Attorney  
25 General and publish in the Federal Register the per centum

1 difference between the price index for the twelve months  
2 preceding the beginning of such calendar year and the price  
3 index for the base period. Each amount determined under  
4 this section and section 11 shall be increased by such per  
5 centum difference. Each amount so increased shall be the  
6 amount in effect for such calendar year.

7           LIMITATIONS ON NONFUND FINANCING

8       SEC. 11. (a) Any candidate who receives transfers out  
9 of the fund under section 8 to his account shall be entitled  
10 to receive contributions and utilize personal resources for his  
11 campaign, subject to the limitations set forth in this section.

12       (b) In the case of a major party candidate for nomina-  
13 tion for election, or for election, to the office of United States  
14 Senator who receives a transfer from the fund, the candidate  
15 may, in addition, receive contributions and utilize personal  
16 resources which, in the aggregate, do not exceed the follow-  
17 ing amounts—

18           (1) in connection with a primary election cam-  
19 paign, the greater of—

20               (A) 2 cents multiplied by the voting age popu-  
21 lation of the State from which he seeks to be nom-  
22 inated for election, or

23               (B) an amount which, when added to the  
24 amount transferable out of the fund for his pri-

1           mary election campaign expenses, totals \$100,000;

2           and

3           (2) in connection with a general election campaign,

4   the greater of—

5           (A) 5 cents multiplied by the voting age

6           population of the State from which he seeks elec-

7           tion, or

8           (B) an amount which, when added to the

9           amount transferable out of the fund for his gen-

10          eral election campaign expenses, totals \$200,000.

11       (c) In the case of a major party candidate for nomina-

12       tion for election, or election, as United States Representa-

13       tive, Delegate, or Resident Commissioner who receives a

14       transfer from the fund, the candidate may, in addition, re-

15       ceive contributions and utilize personal resources which, in

16       the aggregate, do not exceed—

17           (1) 3 cents multiplied by the voting age popula-

18           tion of the district from which he seeks nomination for

19           election, in a primary election campaign, and

20           (2) 5 cents multiplied by the voting age popula-

21           tion of the district from which he seeks election, in a

22           general election campaign.

23       (d) Any other candidate who has a transfer made out

24       of the fund to his campaign account may receive contribu-

25       tions, in addition to any such transfers made out of the fund,



1 in an amount which, when added to the total amount trans-  
2 ferable out of the fund for use in his campaign, equals the  
3 total amount (including transfers from the fund, and the  
4 permitted amount of contributions and personal resources)  
5 available to a major party candidate in connection with his  
6 campaign for the same office.

7 (e) Funds obtained by a candidate in accordance with  
8 the provisions of subsection (b), (c), or (d) in connection  
9 with a primary election campaign which are not needed for  
10 the payment of primary election campaign expenses may  
11 be used to defray general election campaign expenses, but  
12 only if the amount of funds so used has been offset by the  
13 Board in determining the total amount of additional funds  
14 which may be obtained by contribution for the payment of  
15 general election campaign expenses so that the total amount  
16 of such funds available for expenditure in connection with  
17 the candidate's general election campaign is not in excess of  
18 the applicable limitation. Funds obtained by a candidate in  
19 accordance with the provisions of such subsections which  
20 are not needed for the payment of campaign expenses shall  
21 be paid to the Board for covering into the fund within one  
22 hundred and twenty days after.

23 **LIMITATIONS ON INDIVIDUAL CONTRIBUTIONS**

24 **SEC. 12. (a)** No candidate who has amounts transferred  
25 from the fund in connection with his campaign (or, who,

1 because of the application of section 8 (c), fails to receive  
2 amounts to which he is otherwise entitled) shall—

3 (1) receive contributions from any person in con-  
4 nection with his primary election campaign, his general  
5 election campaign, or the posting of security under  
6 section 7 (a) (2) which, in the aggregate, exceed \$250;

7 (2) raise additional private funds from his per-  
8 sonal resources for use in connection with his primary  
9 election campaign, or his general election campaign  
10 which, in the aggregate exceed \$250;

11 (3) raise additional private funds from his per-  
12 sonal resources for use in connection with the posting  
13 of security under section 7 (a) (2) which, in the aggre-  
14 gate, exceed \$250.

15 (b) No person shall make contributions to any candi-  
16 date receiving assistance under this Act which, in the ag-  
17 gregate, exceed the limitations imposed by this section.

18 (c) In the event that a candidate, his agent or political  
19 committees receive a contribution in violation of this section  
20 or a contribution which, in conjunction with other contribu-  
21 tions received exceeds the maximum amount of contributions  
22 that candidate is permitted to receive under section 13, such  
23 contribution excess portion thereof shall be returned to the  
24 donor or paid to the Board for covering into the fund pur-  
25 suant to subsection (f) of this section.

1 (d) No person shall make a contribution to a candidate  
2 for nomination for the election, or for the election to con-  
3 gressional office in the name of another person, and no person  
4 shall knowingly accept such a contribution.

5 (e) The limitations of this section shall apply to any  
6 contribution within the campaign expenditure period and any  
7 contribution made prior to such period which is used for  
8 campaign expenditures.

9 (f) Contributions permitted each person under this  
10 section may not be made under any pooling arrangement or  
11 any other formal or informal arrangement for combining  
12 such contributions. The preceding sentence shall apply to  
13 contributions not counted in determining compliance with  
14 sections 11 and 13 by reason of subsection 13 (b).

15 **LIMITATIONS ON CAMPAIGN EXPENDITURES**

16 **SEC. 13. (a)** No candidate who receives transfers from  
17 the fund to his account in connection with any election cam-  
18 paign may make campaign expenditures in connection with  
19 that campaign in excess of the sum of (1) the amount trans-  
20 ferred to his account under section 8 and (2) the amount of  
21 contributions he may receive and personal resources he may  
22 utilize under section 11.

23 (b) For purposes of this section and section 11, con-  
24 tributions and expenditures shall not be included in deter-  
25 mining compliance with the limitations imposed if such

1 amounts are expended as contributions within the meaning  
2 of section 3 (7) (E) and the independent activity is under-  
3 taken unilaterally by the contributor and not at the request  
4 or suggestion of the candidate, his agents, or political com-  
5 mittees nor in cooperation with them.

6 **POLITICAL PARTY CAMPAIGN FUND ASSISTANCE**

7 **SEC. 14. (a)** The national committee of a political  
8 party and the central committee in each State of a political  
9 party may, in addition to the contribution permitted any  
10 person under section 12, underwrite all or any portion of the  
11 private campaign financing permitted candidates governed  
12 by this Act in accordance with the provisions of this section.

13 **(b)** The national committee or central State committee  
14 shall establish a party campaign account for the purpose of  
15 receiving contributions for distribution to congressional candi-  
16 dates of its party in the general election who receive any  
17 transfers from the fund under this Act.

18 **(c)** The national or central State committee shall open  
19 a single bank account as its party campaign account and  
20 register the account with the Board.

21 **(d)** No moneys shall be deposited in a party campaign  
22 account except individual contributions made expressly to  
23 such account, and no person may make contributions to any  
24 one such account which, in the aggregate, exceed \$250. No

1 such contribution shall be earmarked, expressly or by infor-  
2 mal arrangement, for a particular candidate.

3 (e) Each deposit made in the account shall be accom-  
4 panied by a short statement, in the form prescribed by the  
5 Board, showing the amount and date of each contribution  
6 included in that deposit, and the name, address, and in the  
7 case of individuals, occupation of the contributor. Such state-  
8 ment shall be verified by the depository as to the amount  
9 deposited, to be then transmitted to the Board within one  
10 month after the deposit is made. The depository shall furn-  
11 ish to the Board at least monthly a statement of all with-  
12 draws made from the account and the payee of each  
13 withdrawal.

14 (f) The treasurer of the committee establishing the  
15 account shall be the only person authorized to make with-  
16 draws from the account. Payments may only be made from  
17 the account—

18 (1) in the case of an account established by a State  
19 central committee, to the Candidate Campaign Account  
20 of a candidate of that party for election to congressional  
21 office from that State, and

22 (2) in the case of an account established by a  
23 national committee, to the Candidate Campaign Account  
24 of a candidate of that party for election to congressional  
25 office.

1       (g) The amount transferrable from any Party Cam-  
2       paign Account to a Candidate Campaign Account shall  
3       not be in excess of the total amount of private contributions  
4       the candidate is permitted to receive under section 11, and  
5       any amounts transferred shall be counted with other contri-  
6       butions in determining compliance with that section.

7       (h) The contributions permitted under this section shall  
8       be in addition to the amount of contribution which a person  
9       may make under section 12 of this Act.

10                   ENFORCEMENT AGAINST VIOLATIONS

11       SEC. 15. (a) The Board is empowered, as hereinafter  
12       provided, to prevent any person from engaging in any acts  
13       or practices which constitute or will constitute a violation of  
14       any provisions of this Act or any regulation or order issued  
15       thereunder.

16       (b) Any person who believes a violation of this Act  
17       has occurred may file a complaint with the Board. If the  
18       Board determines there is reason to believe such a violation  
19       has occurred, it shall expeditiously make an investigation,  
20       which shall also include an investigation of the campaign  
21       finances of the complainant if he is a candidate of the matter  
22       complained of.

23       (c) Whenever a charge is filed—

24               (1) by the Board; or

1           (2) by or on behalf of a person claiming to be  
2       aggrieved,  
3       the Board shall serve notice of the charge (including  
4       the specific nature of the alleged violation) on such  
5       person expeditiously and shall make an investigation thereof.  
6       Charges shall be in writing under oath or affirmation and shall  
7       contain such information and be in such form as the Board  
8       requires. The Board shall make a determination on reasonable  
9       cause expeditiously and so far as practicable not later than ten  
10      days from the filing of the charge.

11       (d) Whenever in the judgment of the Board there is  
12      reasonable cause to believe any person has engaged or is  
13      about to engage in any acts or practices which constitute or  
14      will constitute a violation of any provision of this Act or any  
15      regulation or order issued thereunder, the Board shall hold  
16      a public hearing after affording due notice and an opportunity  
17      for a hearing by all parties, including the complainant and  
18      promptly issue its findings and an appropriate order.

19       (e) If the respondent fails to comply with the findings  
20      and order of the Board, the Board shall bring a civil action  
21      against any respondent named in the charge. The person  
22      or persons aggrieved by the violation shall have the right  
23      to intervene in a civil action brought by the Board. If a  
24      charge filed with the Board pursuant to subsection (b) is

1 dismissed by the Board, if within ten days from the filing  
2 of such charge, the Board has not held a public hearing  
3 on such charge, or if within five days from the date of  
4 issuance of an order pursuant to subsection (d) the Board  
5 has not filed a civil action under this section and the viola-  
6 tion has not been corrected, a civil action may be brought  
7 against the respondent named in the charge or against the  
8 Board (A) by the person aggrieved.

9 REVIEW OF BOARD DETERMINATIONS

10 SEC. 16. (a) Any candidate for nomination for election  
11 or for election to congressional office who is aggrieved by—

12 (1) a determination of ineligibility under section  
13 7(d) to receive transfers from the fund;

14 (2) the determination by the Board of the amount  
15 of transfers to which he is eligible to receive; or

16 (3) any other determination, action or failure to  
17 act by the Board with respect to the candidate's par-  
18 ticipation in the operation of this Act

19 may petition the Board for a prompt hearing on its deter-  
20 mination, action, or failure to act.

21 (b) The Board shall order such a hearing held on the  
22 record, with the opportunity to be heard and present evi-  
23 dence, expeditiously and at a location reasonably convenient  
24 to the candidate.

25 (c) If, after the hearing on the petition, the Board does



1 not reverse or revise its determination, action, or failure to  
2 act, and the petitioner remains aggrieved, he may bring  
3 a civil action for judicial review of the matter.

4 JURISDICTION OF DISTRICT COURTS

5 SEC. 17. (a) Each United States district court shall have  
6 jurisdiction of actions brought under this Act. Such action  
7 may be brought in the United States district court for the  
8 District of Columbia, in the United States district court for  
9 the judicial district in the State in which the unlawful action  
10 or practice is alleged to have been committed, or in the  
11 United States district court for judicial district in which the  
12 candidate who has or may benefit from the action of the  
13 respondent is running for Federal elective office.

14 (b) In any action brought under this Act the summons  
15 and subpoenas for witnesses may run into any other district.

16 (c) Any action (or appeal therefrom) brought under  
17 this Act shall be advanced on the docket of the court in which  
18 filed, and put ahead of all other actions (other than other  
19 actions brought under this Act), to the greatest possible  
20 extent.

21 PENALTIES

22 SEC. 18. (a) A willful violation of the contribution or  
23 expenditure limits imposed by sections 12 (a), 12 (c), and  
24 13, or a willful misuse of any transfers received from  
25 the fund, or a willful falsification of any record or state-

1 ment required to be submitted or retained by the candidate  
 2 under this Act shall be punishable by a fine of not less than  
 3 \$5,000, nor more than \$50,000 or the total amount of trans-  
 4 fers received from the fund whichever is greater, and not less  
 5 than six months nor more than five years' imprisonment.

6 (b) Violation of any other provision of this Act, or of  
 7 any rule or regulation promulgated by the Board under this  
 8 Act, shall be punishable by a fine of not more than \$10,000,  
 9 or imprisonment for not more than one year, or both.

10 (c) Except in prosecutions for willful falsification of  
 11 records or statements under subsection (a), no evidence ob-  
 12 tained for any record, statement, or application required to  
 13 be kept or submitted by a natural person by this Act shall  
 14 be used, directly or indirectly, as evidence in a criminal pro-  
 15 ceeding, against that person with respect to a violation occur-  
 16 ring prior to or concurrently with the filing of such statement  
 17 or application or the making of such record.

#### 18 STATE LAWS NOT AFFECTED

19 SEC. 19. Nothing in this Act shall be considered to  
 20 invalidate or make inapplicable any provision of any State  
 21 law, except where compliance with that provision of law  
 22 would result in a violation of a provision of this Act.

#### 23 RELATIONSHIP TO OTHER FEDERAL ELECTION LAWS

24 SEC. 20. (a) The Board shall consult from time to time  
 25 with the Comptroller General, the Secretary of the Senate,

1 and the Clerk of the House of Representatives, the Federal  
2 Communications Commission and with other Federal officers  
3 charged with the administration of laws relating to Federal  
4 elections, in order to develop as much consistency and co-  
5 ordination with the administration of such other laws as the  
6 provisions of this Act permit. The Board shall use the same  
7 or comparable data as that used in the administration of such  
8 other laws whenever possible.

9 (b) (1) Section 301 (e) of the Federal Election Cam-  
10 paign Reform Act of 1971 is amended by—

11 (A) striking “and” at the end of paragraph (4) ;

12 and

13 (B) redesignating paragraph (5) as (6), and  
14 inserting after paragraph (4) the following new para-  
15 graph:

16 “(5) a transfer of funds to a candidate’s account  
17 made out of the Congressional Campaign Assistance  
18 Fund under section 8 of the Congressional Election  
19 Finance Act of 1973; and”.

20 (2) Section 301 (f) of the Federal Election Campaign  
21 Reform Act of 1971 is amended by—

22 (A) striking “and” at the end of paragraph (2) ;

23 (B) inserting “and” after the semicolon in para-  
24 graph (3) ; and

25 (C) inserting at the end of subsection (f) the fol-  
26 lowing new paragraph:

1           “(4) a payment of campaign expenses made out of  
2       amounts received from the Congressional Campaign As-  
3       sistance Fund under section 8 of the Congressional Elec-  
4       tion Finance Act of 1973;”.

5                               SEPARABILITY

6       SEC. 21. If any provision of this Act, or the application  
7       thereof to any person or circumstance is held invalid, the  
8       validity of the remainder of this Act and the application of  
9       that provision to other persons and circumstances shall not  
10      be affected by that holding.

11                            AUTHORIZATION OF APPROPRIATIONS

12      SEC. 22. (a) There are authorized to be appropriated  
13      to the fund such amounts, in addition to the amount initially  
14      appropriated under section 4, as may be necessary to carry  
15      out the operations of the fund.

16           (b) There are authorized to be appropriated to the  
17      Board such sums as may be necessary to carry out the other  
18      provisions of this Act.

Senator PASTORE. S. 372 would amend the existing "Federal Election Campaign Act of 1971" in two respects:

1. Repeal the equal time requirement of section 315 of the Communications Act as it applies to candidates for President and Vice President.

I want to say a word or two on that. We have tried over the years since 1960 to do something about repealing the equal opportunity provision of section 315 insofar as it applies to the Office of the President and Vice President. We suspended it in 1960, and that led to the so-called famous debates between Kennedy and Nixon.

Maybe insofar as some people are concerned, the results of that debate left a sour taste in their mouths; but the fact still remains that was the first time you had a direct confrontation between two candidates for the Office of the Presidency.

Now, it must be said the chances are that was made possible because neither one at the time was an incumbent. We found that the successors to President Kennedy were rather reluctant to engage in a debate. They never said so categorically, but every time we tried to do anything about repealing the provisions of section 315, in a roundabout way, we found out that there was a little bit of a displeasure as to this in the White House, whether the incumbent was a Republican or a Democrat.

Now, it was because of that reluctance when the networks came before this committee the last time, I was very emphatic that if we repealed section 315 and the networks gave free time the candidates themselves should have the choice of the format. If they wanted a confrontation with one another, it would be their decision.

On the other hand, if the candidates did not decide to do it that way, and wanted to dictate their own format, they could very easily do it. And the networks said they were willing to give substantial amounts of time to all of the significant presidential candidates free of charge, and in a format of their choosing. Why anyone is against that is beyond me, especially in view of the cost of buying television time on a national hookup. Here are the networks willing to give it free, format at the choice of the candidate himself.

I could never understand why anyone opposed it, but they did. And as a consequence, we had to knock it out. The opponents' argument is if you do it for the Presidency, you ought to do it for the Governors and Senators and Congressmen. And, of course, there is no analogy to be drawn at all in those cases because a Senator or Congressman runs either on a State, or district, or local level, and the President runs on the national level. And it is only there that the national networks come into play. On the local level, it is only the local stations that come into play.

And it is my experience back home that enough time is given to the local licensees who, after all, are interested in the elections for Federal office in their own State. And I think they have been rather generous in that respect.

But be that as it may, I hope their people will understand the situation better, because in 1976 both of the candidates for the office of the Presidency will not be incumbents.

2. The second thing S. 372 would do is extend the existing limitation on media and telephone spending to include any expenditures whatso-

ever by or on behalf of a candidate for Federal elective office; and in the process increase the amount a candidate would be entitled to spend from 10 cents to 25 cents times the voting age population of the geographic area in which the election is being held.

And I want to say here, again, there is no pride of authorship, and the amount that has been suggested is flexible. It could either go up or down in order to reach a reasonable amount. I do want to tell how I reached the figure of 25 cents, I took my own State as an example. The 25 cents in my State would mean that each of the candidates could spend about \$168,000 to run for the office of Senator. And in my opinion, from my own experience, that is more than enough.

The equal time requirement of section 315 was, of course, suspended for the 1960 Presidential campaign, and the major networks were able to give substantial amounts of free time to the significant candidates as a consequence. They have informed the committee that they will do so again if relieved of the strictures of section 15. The networks have also assured the committee that such free time would be available to each candidate to use as he saw fit. In other words, these offers would not be conditioned upon a predetermined format.

From experience we know the 1960 suspension resulted in a wider and more informed electorate. We also know that the cost of television time is the most expensive item in a Presidential campaign.

Repeal of the equal time requirement should therefore have the two-fold effect of reducing the cost of these campaigns, and helping the voter make an enlightened choice.

The year 1976 will offer a unique opportunity. There will be no incumbent candidate for the Presidency. In the past, each of the major parties has had an incumbent candidate, and in each instance the incumbent candidate did not favor repeal of section 315.

Extending the spending limitation to cover all campaign expenditures speaks for itself. From what we already know of the recent elections a selective limitation simply does not achieve the objective everyone is seeking.

An overall limitation should stop escalating costs. Moreover, each candidate will be in a position to decide how best he may apportion his campaign expenditures. We know, for example, in some of the smaller States, and in certain congressional districts, the electronic media is not the major item of expense. Direct mailings, hand bills, and so forth—none of which are covered by the present limitations—figure more prominently. Each candidate should be free to decide these matters and yet still be subject to an overall limitation.

As we begin these hearings, I would hope everyone is aware that the committee does not purport to have any pat answers. S. 372 is one approach to a solution; undoubtedly there are others. That is why we are here today—to give the subject a thorough airing. There is no partisan concern, only a common concern to solve the problem which is affecting our democratic system of government.

In order to expedite the hearing, unless my colleagues have some introductory remarks they would like to make, I would like to call on the first witness, Mr. John Gardner, who is the head of Common Cause, a citizen's group. He is a man who is dedicated to seeing to it that our democratic process is preserved and be an object of admiration for all of our citizens.

Senator Baker, do you have anything you would like to say at this time?

Senator BAKER. Mr. Chairman, I have nothing to say except to join you in welcoming Secretary Gardner to this hearing. We look forward to his testimony and the resultant product of his extensive inquiry over a long period of time into a very crucial subject.

Having just navigated the rocks and shoals of an election campaign myself and conceding freely that the wounds are not fully healed and in some cases the stitches not yet removed, I feel that I come to this hearing fresh and in a position to lend personal insight.

I just say that I have on previous occasions uttered certain reservations and cautions about the extent and nature of limitations that are placed by statute on the elective process for fear that in general they may limit the freedom of expression and the flexibility of that process. I would hope that it would be the function of this committee in further examination of campaign financing legislation to try to find and to further elaborate the judicious balance between sanity in campaign financing and full freedom and flexibility of the elective process.

That will not be an easy job, but I expect that in the course of things, we will hear extensive testimony containing recommendations from distinguished witnesses such as this one. I look forward to the further proceedings of the subcommittee.

Senator PASTORE. Senator Pearson.

Senator PEARSON. I have no comment. Thank you.

Senator PASTORE. Senator Magnuson.

The CHAIRMAN. No.

Senator PASTORE. Senator Stevens.

Senator STEVENS. Mr. Chairman, I, too, just crossed that bridge of an election. And I am most interested as we try to review this matter—I agree with you that we should keep in mind the effect on some of the media as we attempt to limit the expense for candidates. I think we have placed greater burden on some of the smaller media in States such as mine that eventually will become so burdensome they will not be able to survive.

So I am most anxious to hear Mr. Gardner's presentation and the others. And I hope that we can keep in mind that these small newspapers, small television, small radio stations, have to secure enough income to keep going. And during an election year, it is a very difficult thing to do if we are going to put additional burdens on the media in terms of meeting their obligation to inform the public as to the issues and give all candidates an equal opportunity to appear before the public.

Senator PASTORE. There is nothing in this bill that does that. No one wants to do that. We are not adding any burdens upon anyone. What we are trying to do is relieve a burden.

I have been in public life now continuously for 38 years. The first time I ran for Governor in my State, I spent less than \$50,000. Today, you have to spend half \$1 million, and maybe more. When I was elected the office of Governor only paid \$8,000 a year; and it has gone up now to the astronomical figure of \$25,000 a year.

Now, any time anyone begins to spend almost \$1 million to secure a job that pays \$25,000 a year, you can imagine the cynicism on the part of the people. They say, "What gives?" The point here is not to

encroach in any way upon the freedom of expression. Naturally, you have to be liberal enough—but it then becomes a competitive contest. And it is a question of who can spend the most money.

I do not think that the people ought to be inundated with a lot of propaganda. I think the issues ought to be explained, but I do not think that the election ought to be up for sale. That is what we are trying to prevent.

Now, the Congress of the United States in 1971, realizing the major part of the cost went toward the electronic media, newspaper advertising, other periodicals, billboards, and certain telephone uses, limited spending in those areas. Now it develops that even with that limitation, candidates use other forms of bringing the information to the public. And in many, many instances, the public is really annoyed with the number of letters that go to the "occupant of such and such a place."

It does not help anybody. But just because your opponent does it, you do it, too. And a lot of money is wasted, really wasted. Sometimes I think they would be better off if they gave it to the poor.

But the fact still remains that we want to be reasonable. We want to be generous enough. But on the other hand, we ought to eliminate the scandals that I think are beginning to grow up. When you realize a candidate has to spend \$2.5 million to be elected, that is in my judgment too much. And when a man who runs for the Presidency has to spend more than \$50 million to be elected, even though he is incumbent and can be on the front page every day, that to me is questionable.

And this is no reflection on anyone because we all do it. We all do it. I repeat again, if your opponent spends the money, you have got to match it. And it becomes a seesaw. By the time you get through after election day, you say, "What a fool I was." Next time around, you do it all over again.

Senator BAKER. Mr. Chairman, let me make one additional statement in that context. I have heard the allegation from time to time which you repeated in your opening statement that there is something inherently suspicious in the expenditure of \$500,000 or \$1 million in a senatorial race for an elective job that pays \$42,500. I would make a distinction here, if I may, that I believe is important to this inquiry. If we were talking about a very rich man who spent \$1 million to be elected to the U.S. Senate, I would be very suspicious, indeed. But if you are talking, as we are usually talking, about two campaigns—one, the campaign for votes in the traditional and classical manner, and the other for financial support and a broad base of contributors—then it seems to me this analogy of spending a very large sum of money to be elected to a job that pays a relatively modest salary is not in the same category.

The last statute we passed, as you know, provides not only for extensive limitations on expenditures in certain categories, but it also provides for a full disclosure of the amount of personal resources and funds of the candidates and candidate's immediate family, the so-called rich man's amendment.

It seems to me that during this hearing, we need to keep clearly in mind the fact that in the American elective process, the campaign, the effort to have a broad base of voter support is only narrowly more intensive than the campaign to have a broad base of financial support



which I think subsequently negates the idea that the public should be or is cynical about the large sums of money that are spent. I cannot place a dollar value on the power of a U.S. Senator. It is certainly greater than \$42,500.

I would be greatly concerned if a large number of people spent huge sums of money for their own purposes, but I am not so concerned when there is in fact a broad base of national support.

Senator PASTORE. That is true. But when an Ambassador gives \$250,000 to a campaign, you question whether he is the best man for the job, or the best contributor for the job. That is what we are talking about.

Senator BAKER. That, of course, does not affect the State——

Senator PASTORE. It is going to be.

The CHAIRMAN. Mr. Chairman, when we talk about someone spending \$500,000 for a campaign in a State, we say a half a million dollars is a big figure. But I think sometimes, we ought to take a look, too, at what that means in terms of cost per voter.

Let us take my State as an example. We have got 1,700,000 voters. If the campaign costs \$500,000 for the Senate, we would be spending about 29 cents per voter. I think you ought to look at it that way sometimes.

Senator PASTORE. We are making it 25 cents.

The CHAIRMAN. You find it difficult to mail a few letters for 29 cents to a voter; that is, to all the voters in the State. So you do not contact them. Now, you translate that into television and things like that. You hope you pick up the voters.

But say a person wanted to run for Governor in the State or Senator and said, "I do not want to go on television, I do not want any newspaper, I want to have a direct mail to every voter and tell them about me." He would have to spend more than 25 cents a voter. And I do not think there is anything wrong with that.

Senator PASTORE. Well, but when you begin to spend \$1 for a voter, and \$2 for a voter, and \$3 for a voter, there is something wrong. That is what we are trying to do here.

The CHAIRMAN. That is why you put a limitation on it here, so much per voter. What I am trying to say is we should shift from just quoting figures that people spend. We should be concerned with the amount spent in relation to the number of voters that you have.

Senator PASTORE. That is right. And I repeat again, I have no personal pride in the 25 cents. If you have got to make it bigger, let us make it bigger. We have an escalation clause here predicated on the Cost of Living Index so that we take that into account as the prices go up. The law is drafted sensibly enough in that regard.

The only thing that I am saying is that if the sky is going to be the limit, then let us repeal the Campaign Act of 1971, and let us have it over with. But I think it is ridiculous for us to limit spending in certain categories, while the gates are wide open in other categories, and you end up spending even more money under a partial limitation than you did previously, when there was no limitation.

I am not trying to force my will upon anyone. This bill has been introduced because I feel there is some public support. And naturally, of course, if Congress does not want to vote for it, that is their responsibility. But I think in the long run, we are not doing something that has not existed in the law. There has always been a limitation in the law.

The only trouble is that the limitation was such there were many subterfuges. The limitation was a ridiculous one. We did put—in the 1971 law—a limitation on what a family can contribute to the candidacy of one of its members; but the fact still remains that when a man contributes \$2.5 million to a Presidential campaign, he is not doing it because he loves his mother.

And when a man makes a contribution of \$15,000, or \$20,000 or \$30,000, and he knocks at your door, you cannot say, "I am out." The least you have got to do is see him.

And when you talk about the cynicism of the public, that is what the public is seeing. Why do these people make such big contributions? Why do they have to? What are they looking for? That is your question. And that is the reason why there is strong sentiment in this country to have all elective offices at the Federal level financed with public money.

Well, now, maybe the public is not ready for that drastic change. But eventually, if you want to preserve this democracy, you have got to give that serious thought.

Senator BAKER. Mr. Chairman?

Senator PASTORE. Yes.

Senator BAKER. Two things, and then I promise Mr. Gardner I will not impose on his time.

The Congressional Record and these hearing records and the hearing records of the Rules Committee are already extensively burdened with remarks I have made about my conception of the perils and pitfalls of public financing of campaigns. I do not want the Federal Government running political campaigns because it finances them. I shudder to think of the rules and regulations that would issue in that respect. And I do not believe that the viability of the free democratic system is served by having bureaucratic intrusion into the election process.

The second point, however, is one that I would offer as an observation at the outset so that we might give it some thought during these hearings. I believe there was probably in the 1972 election, which was the first election in which the new campaign laws were effective, an unintended effect. Call it the effect of centralization.

My disclosure of my campaign expenditures in 1972 shows something in the range of \$1 million spent. The published reports of the campaign for Governor in 1970 and the U.S. Senator in 1970 show something in the same range or a little higher. But I am convinced on the basis of this phenomenon of centralization that I spent about half of what was spent in the previous races, notwithstanding that the published figures are about the same. And this is the reason why:

Before the new campaign act, many, many campaign functions were handled at the local level. County headquarters were locally funded and maintained. Local telephone bills were locally paid and maintained. Advertisements in small daily newspapers and county newspapers were locally obtained and paid for.

But to comply with the letter and spirit of the law, it was necessary for me in my campaign to centralize at one point all of the money that was contributed, every cent, in one account and to have one authority for paying all bills. So as a result of that, bills that had never been paid by a candidate were picked up and paid by this candidate

in 1972 such as the rental of a headquarters in, say, Gibson County, Tenn., \$68 a month.

But the point of the matter is that the campaign act, whether intentionally or unintentionally, has centralized the accounting functions which I suppose is good, but has also placed a greater burden on the candidate himself as distinguished from the political system, the local organization, the local party, local committees and the like.

So I offer for your observation and comment whether that is good or bad, but it is an observable phenomenon that deserves our attention.

The CHAIRMAN. Well, Mr. Chairman, I talked about how much you spend in the campaign per voter. That must be considered. But, you could spend \$1 a voter if it came from the right place. Is that not correct? If everybody contributed. Nobody is ever going to get the figure, but you could.

What we are trying to talk about is the source of contributions. If I have to spend 35 cents per voter, who gives it to me? Where do I get it? Is that not the main thing we are talking about?

Mr. GARDNER. They are linked. The higher the sum, the more you have to go to big donors.

The CHAIRMAN. They are not big expenditures, and I do not think some of them are out of line when you consider the number of people you have to try and contact. You cannot send a postcard for less than 10 cents. And I think what we are concerned with is where does it come from and, as the chairman said, what do they expect for it, when they do it.

Senator PASTORE. Any further comments?

Senator HART. I am tempted, but all I will do is apologize for arriving late. The airplane was a little slow.

Senator PASTORE. All right, Mr. Gardner.

First of all, we welcome you here, and we thank you for accepting our invitation to appear as a witness.

**STATEMENT OF JOHN W. GARDNER, CHAIRMAN, COMMON CAUSE;  
ACCOMPANIED BY FRED WERTHEIMER; AND KEN GUIDO**

Mr. GARDNER. Mr. Chairman, I thank you and thank the other members of this committee for providing the opportunity for Common Cause to testify this morning. I would like to submit my entire statement for the record, but I will omit portions for the sake of brevity.

Senator PASTORE. Without objections, so ordered.

Mr. GARDNER. Recalling my days as Secretary of Health, Education, and Welfare, I reflect with pleasure and gratitude on the many occasions when you, Mr. Chairman, came to the rescue of critically important legislation.

This committee has before it once again the issue of campaign finances, an issue of paramount importance to the well-being of our Nation. There is nothing in our political system today that creates more mischief, more corruption, and more alienation and distrust on the part of the public than does our system of financing elections. It allows individuals and groups which seek preferential treatment from government to give unlimited sums of money to public officials who can provide such treatment. It not only allows, but often forces some of the Nation's most powerful public decisionmakers to solicit money

from people and groups who will be personally affected by their decisions.

Many citizens contribute to political campaigns out of conviction and with no thought of personal gain. And the best of our elected officials do not permit campaign contributions to affect their decision-making. But unfortunately all too many contributions are made with the intent to influence political outcomes.

The link that so often exists between campaign contributions and preferential treatment by politicians was summed up by Edward Garmatz, former Maryland Congressman who had served as chairman of the Merchant Marine Committee. When questioned recently about the heavy political contributions he received from the maritime industry, he said:

Who in the hell did they expect me to get it from—the post office people, the bankers? You get it from the people you work with, who you helped in some way or another. It's only natural.

Congressman Chet Holifield expressed it another way, in speaking of lobbyists. He asserted, as quoted in the Los Angeles Times, that if they did not help fill campaign purses, "the power of lobbyists would be practically nil."

Growing national concern over the scandal of campaign finances brought enactment of the Federal Election Campaign Act of 1971, the first major revision of Federal campaign spending laws in nearly a half century. This committee, under the leadership of Chairman Pastore, played a critical role in passage of that legislation as did Senator Cannon. And we were particularly pleased in our collaboration with Senator Pearson on the effort to get an independent elections commission which as you remember was passed by the Senate and knocked out in the House.

The effort was truly bipartisan with Republicans and Democrats in both bodies of Congress playing key roles to achieve the final result.

One national election has now been carried through under the new act, and there are grounds for two fundamental conclusions.

First, the 1972 experience has shown the unquestionable importance of the new law in making available information about campaign finances;

Second, it has demonstrated the need to move far beyond that law if the root evils of campaign financing are to be successfully eliminated.

In this regard, Mr. Chairman, we support your efforts to repeal the equal time provision for Presidential elections. Such a step will surely raise the level of discourse and provide for a more meaningful exchange of ideas.

We would go further, however, and urge the repeal of the equal time provision for all Federal candidates as has been proposed in legislation offered yesterday by Senators Hugh Scott and Charles Mathias and Adlai Stevenson.

Mr. Chairman, we also support your concept of an overall limit—we feel very strongly about that—the overall limit on expenditures in a given race, and applaud your statement supporting a ceiling on individual contributions.

I will say parenthetically that I do believe that the overall limit on expenditures ultimately relates to the sources of the contributions. If

the sky is the limit, you pretty much have to go sooner or later to a very large donor.

Despite public disclosure, individual contributors continued to provide huge sums for candidates. According to available public information, President Nixon's top 10 contributors gave more than \$4 million, and the top 100 gave \$14 million.

Senator McGovern also received major individual contributions and found in October 1972 the need to specifically solicit these large contributions. He said at that time, "We've reached a period now where we have to get large amounts of money fast."

We believe that expenditure ceilings must be imposed in the context of a broader program that will provide for public financing of Federal elections. The concept of public financing of campaigns is, of course, not new to Federal law. Last year, Congress enacted the \$1 tax checkoff provision for Presidential elections—an action in which Senator Pastore again played a leading role.

We are aware of the early reports that limited taxpayer use of the checkoff is taking place. We are also aware that this is going to be used as a means of arguing that the public does not want public financing. But the truth is that the checkoff has not yet received a fair test.

Yesterday, Common Cause filed suit in Federal district court against the IRS for failing to place the dollar checkoff on the 1040 and 1040A forms as intended by Congress and for failing to make appropriate efforts to inform taxpayers about the checkoff. We believe that these IRS failures were a major factor in reducing the use of the checkoff; and we have sued so that these failures may be corrected as quickly as possible.

In some measure, Federal financing of elections is already a fact—not duly legislated Federal subsidy, but furtive subsidy courtesy of the IRS. Many donors contribute in the form of appreciated stock, and the IRS permits the candidate to sell the stock without paying the capital gains tax. This complaisance of the IRS in matters of campaign financing is also manifested in its winking at those who evade the gift tax by fragmented gifts to multiple committees.

The basic ingredients of public financing legislation should, in our opinion, include the following:

1. The provision of ample Federal funds for the conduct of election campaigns by qualified candidates.
2. A very limited role for private contributions including a strict limitation on individual gifts, such as \$100 for House races, \$250 for Senate races, and \$500 for Presidential races.
3. An overall limit on expenditures for a given race.
4. An end to organized committee giving, and to all forms of pooling contributions.
5. A bar to the transfer of cash in political campaigns.
6. A role for the political parties in the financing of general elections.
7. The creation of a hardnosed oversight and enforcement agency to insure compliance.

Yesterday, Senator Philip Hart introduced a congressional public financing bill which addresses these fundamental points. We applaud Senator Hart for his leadership in this area and believe that this legislation should become the subject of national debate and congressional

review. We do not necessarily agree with every one of the positions set forth in the Hart bill.

We believe, for example, that his measure should apply equally to Presidential elections, and not be limited to Congress. And we would eliminate the present system of financing altogether, not leaving it as an alternative for those who do not want to go the Federal financing route. Despite these differences, we believe the Hart bill provides a vitally important framework for consideration of this subject.

We agree completely with the majority leader of this body, Senator Mansfield, who recently said:

\* \* \* I can think of no better application of public funds \* \* \* than \* \* \* to use them for the financing of elections so that public office will remain open to all, on an unfettered and impartial basis, for the better service of the Nation.

The fact of the matter is that you could finance the entire costs of two national Presidential and congressional elections for approximately the same costs as we presently pay for one Trident submarine.

Among the critics of the present system of financing are many elected public officials and many donors. In conversations we have had with Senators and Congressmen, they have told us over and over again that political fundraising is the most distasteful and degrading part of their jobs. Similarly, numerous business executives, labor union officials, and major individual givers receive pressures from so many directions that they feel they are being shaken down.

In short, under the present system of campaign financing both candidates and givers, willingly or not, are prisoners of a system—this is the point which the chairman made—which exposes them to suspicion and pressure and legitimizes the exchange of money for political favors.

Last fall, Common Cause members throughout the country polled congressional candidates to get their views on public financing of campaigns. Of the 227 winning House candidates who answered our members, 129 favored the idea of public financing, 73 opposed it, and 25 were undecided. This hardly fits the widely expressed view that Federal financing of campaigns is not politically feasible at this time.

One can rarely nail down the causal relationship between campaign fights and later political acts. But the patterns of political giving create a cloud of suspicion that can only deepen the cynicism of the average citizen. Consider some examples:

An analysis of legislation sponsored by the dairy industry and now pending in Congress shows that of the 43 House sponsors, 29 received a total of more than \$110,000 from the dairy industry in the 1972 election campaigns.

On the Senate side, of the seven cosponsors who ran in 1972 either for reelection or for President, five received a total of \$51,700 from the dairy industry. Of the total received by House and Senate candidates, \$33,500 came after the election had occurred.

For the donor, of course, postelection giving has the advantage that the money can be given to a known winner.

An analysis regarding the AMA-sponsored medicredit bill shows that of some 140 cosponsors in the House, 68 received \$226,000 from the AMA during the previous election campaign, including five who are members of the key Ways and Means Committee. On the Senate

side, of the seven cosponsors who ran for Senate in 1972, five received some \$27,500 from the AMA.

Similarly, the national health insurance bill cosponsored primarily by the labor movement shows 48 cosponsors in the House with 47 of those 48 having received \$110,000 during the 1972 elections from COPE committees of the AFL-CIO or the UAW. On the Senate side, the eight cosponsors who ran in 1972 for Senate received \$100,000 from the same groups.

The Seafarers International Union's political fund gave \$100,000 to the Nixon campaign just before election day, so that it did not appear in published reports until January 31, 1973, and they gave that money shortly after the Justice Department decided against appealing the dismissal of an indictment against the union for illegal contributions.

Moreover, despite the law's prohibition against direct giving by unions, the \$100,000 was obtained through a bank loan to the fund and not from voluntary contributions by union members.

One major presidential fundraiser along with a major contributor received one of the speediest bank charters granted in the last 5 years.

Robert Vesco, the donor of a recently revealed \$200,000 cash contribution to the Nixon campaign, also makes clear what campaign contributions, at least some of them, are all about. In a deposition from a Nixon campaign leader in New Jersey, Harry Sears, Vesco is quoted by Sears as stating that two earlier checks to the campaign for \$10,000 and \$5,000 were "his way of saying thank you for the favor that I had done."

The so-called favor—arranging a phone call on Vesco's behalf by then Attorney General John Mitchell. As for the \$200,000 contribution, if it came in after April 7, as appears to be the case, the Committee to Reelect the President should have reported it under the new law. And if it came in before April 7, as the committee claims, it should have been reported under the old law. Mr. Vesco, incidentally, is presently the subject of a major SEC suit.

I should add that the \$200,000 have been returned to the donor.

Let me skip a couple of passages here.

When the Federal Election Campaign Act of 1971 became law, the question remained open as to whether it would be enforced. No previous campaign finance legislation had ever been enforced. Common Cause decided that a lively citizen interest in enforcement might make the difference.

So during the political campaign of 1972, Common Cause undertook a major compliance effort designed to create an atmosphere in which all interested parties would realize that the long tradition of non-compliance had ended. I think we succeeded. We made public numerous instances of improper filings and other violations of the new law, and filed hundreds of complaints with the supervisory officers regarding late filings and no filing violations.

Again, I will skip some paragraphs.

Helping to insure public access to the information being filed by candidates was a major Common Cause goal during 1972. The new law made no provision for systematic dissemination of the information, and it was apparent that the media would not have the resources or time to do the job by themselves. So common Cause undertook to help act as a compiler, analyst and distributor of the information.

As a result of our work, Common Cause now has comprehensive data on campaign financing for the 1972 elections. This includes copies of every report filed by candidates and committees with the Clerk of the House and Secretary of the Senate—both of whose offices, incidentally, were extremely cooperative with us throughout the year. We have lists of all itemized presidential donors for the period April 7 through October 23 and preliminary summaries for most House and Senate races and for most interest groups that make heavy contributions.

An example of the kind of information now available is the relative financial support of incumbents and challengers.

In a survey covering 275 House candidates and their major party challengers where both had all their reports in up to October 26, we have found that the average of contributions raised by an incumbent was approximately \$54,600, while the average raised by a major party challenger was approximately \$27,900.

Similarly, on the Senate side, in a survey covering 25 Senate incumbents and their major party opponents where both have filed reports through October 26, we found the average amount raised by an incumbent was \$403,000 and the average raised by a challenger was \$195,000. In both cases, incumbents raised roughly twice as much as challengers.

I will say by way of caution, the above data are offered only as an example. They are incomplete in that they do not include the January 31 reports, have not been completely rechecked, and leave out races in which complete information was simply not filed.

Senator PASTORE. I would say, though, that even an exaggerated amount of money sometimes does not do you any good. Because you cannot buy an election anyway, even if you try. It is votes that count.

But it is this idea that sometimes in this competitive race that too much money is spent. Have you any breakdown on who won and who lost, even in spite of the money? There were many, many upsets, were there not?

Mr. WERTHEIMER. Mr. Chairman, we do not have the final answer necessary yet.

Mr. GARDNER. This is Mr. Wertheimer who ran our whole campaign. Senator PASTORE. I was wondering if you can get that.

Mr. WERTHEIMER. We are working on trying to get those final figures—the final tabulations in comparison of who won and who lost.

Senator PASTORE. The point I am making is that it is not the fellow who usually spends the most money who wins the election. Because the ultimate judge is the public, and the ballot box. All we are trying to do is bring this within reason. The idea is that the more money that comes in, I think the more you become beholden to the giver for some reason. And that is inescapable. It is a human trait.

And I do not think we have to talk about that, but it would be interesting.

You brought out the fact that the incumbent—it is understandable—would receive more money. First of all, he occupies the office. I suppose more people would feel that he has a better chance of remaining there, and maybe make the contribution more worthy in that regard.

But in order to get this in proper context, I was wondering if we could get those figures if we have them.

Mr. WERTHEIMER. Yes, we can. We do know already very, very few incumbents in the House of Representatives were defeated in 1973.



Senator PASTORE. Quite a few in the Senate were defeated. And there were some surprises.

The CHAIRMAN. Well, Mr. Chairman, I have observed one or two elections personally where the vast expenditure of money reacted against the person that was running. It became so obvious that the people voted against them. And it hurt in the long run.

Now, that seems an unusual case, but that happens.

Senator BAKER. One other point occurs to me. The observation that incumbents obviously raise more money than challengers is paralleled by another observation with which I believe you would agree; that is, generally speaking incumbents have a higher name recognition than challengers.

Mr. GARDNER. Right.

Senator BAKER. And that in trying to limit the amount that can be spent on campaigns, we have to be very careful to make sure we do not convert it into a shelter for incumbents. We don't want to place an expenditure limitation of such a type or in such amount that it becomes practically impossible for a challenger to make a successful challenge against an incumbent.

I do not have a solution but would you agree that is a matter we have to keep our eyes on?

Mr. GARDNER. It is a fair comment, yes.

Senator PASTORE. I agree with that statement.

Mr. GARDNER. Mr. Chairman, I apologize for not having introduced my colleagues, Fred Wertheimer who ran the campaign monitoring, and Ken Guido, our attorney who worked with him on it.

I have just a few more paragraphs.

We believe that the record of 1972 makes clear the need to end the present system of financing elections. We also recognize that this is an issue that will be hard fought from beginning to end. In the interim, the Federal Election Campaign Act of 1971 remains an extremely important piece of legislation. We have urged that a full scale congressional review of this act be conducted based on the experiences of 1972.

Certainly no campaign finance legislation should be considered on the floor of the House or Senate until such a broad review has occurred. We have not addressed ourselves here to specific amendments to the 1971 act such as proposals to improve and strengthen the reporting requirements and we will save our comments on that subject until general hearings have been scheduled by the Senate Rules Committee.

We would note, however, our belief that the single greatest need is for the creation of an independent elections commission with powers of enforcement and subpoena. In this regard, we strongly endorse the efforts on behalf of such a commission initiated yesterday by Senators Hugh Scott, Charles Mathias, and Adlai Stevenson.

Senator BAKER. Mr. Chairman, could I interrupt for a moment to say I have here the statement Senator Scott made and the statements of Senator Mathias and Senator Stevenson. I wonder if, at an appropriate point in the record, these might be included for the purposes of these proceedings.

Senator PASTORE. All right, I think this would be an appropriate part of the record. Without objection, so ordered. It will be inserted at this point.

(The statements follow:)

## STATEMENT OF HON. HUGH SCOTT, U.S. SENATOR FROM PENNSYLVANIA

Mr. President, the 1972 elections were held four months ago and it is appropriate to ask ourselves now whether we know as much about them as we should. After all, the Federal Election Campaign Act of 1971 was supposed to tell us who gave how much to whom and when. If I were a professional critic, I would have to give the new law mixed reviews, citing its bold structure but spotty performance.

I introduced a very strong and effective campaign reform bill two years ago. If it had been enacted, the entire aura of the presidential campaign would have been strikingly different. I can say this because had my original proposal for an independent Federal Elections Commission been a part of the law, there would be no question as to the legality of certain campaign contributions and there certainly would not have been continuous haggling over various campaign practices and procedures. Many of the problems we encountered in 1972 were created because of a split between the administrators and the enforcers of the law, in addition to the three-way split among the repositories for the various federal offices being sought. I said it two years ago, and I will say it again—what we need is an independent Federal Elections Commission to regulate campaign spending.

I am today introducing, along with the distinguished senior Senator from Maryland (Mr. Mathias), four bills to correct some of the deficiencies in the existing campaign disclosure law—the greatest of which is the absence of a federal commission.

The first bill deals principally with the reporting and disclosure of campaign contributors. We propose to create a six-member Federal Elections Commission, appointed by the President and confirmed by the Senate. Each member would serve a six-year term. The Commission would have full legal powers, including the subpoena of witnesses and evidence. Furthermore, it would be empowered to "initiate, prosecute, defend, or appeal any court action . . . through its own legal representative". To avoid an overly large, year-around staff, the Commission would be able to use, at peak periods, the personnel and the facilities of the Department of Justice and the General Accounting Office. The Commission would submit its budget directly to Congress along with any recommendations it may have for legislation. Those functions now maintained in the GAO, the Secretary of the Senate and the Clerk of the House would be given an orderly transfer to the new commission.

It would be helpful, at this point, to recall that the Senate previously supported the creation of a Federal Elections Commission by a vote of 89 to 2. Unfortunately, the House did not agree, and the conference committee had to compromise. But we are already on record in support of a very significant reform proposal. Perhaps the House might now be willing to go along with us.

There are a number of new features in our bill aimed at reducing the volume of paper work and eliminating the temptation to obfuscate the law. First, every candidate would be required to utilize the concept of a central campaign committee, through which all of his reports must pass. Regardless of the number of committees supporting his election, each must submit its report to the parent committee. The parent committee would, in turn, file its report with the Commission. Second, reports would include each amount contributed of \$100 or more. Current law requires only amounts in excess of \$100. Obviously, there is a substantial gap in the law here and we hope to close it. Third, we would require that cash contributions of \$2,500 or more be reported within 24 hours. Current law stipulates that contributions of \$5,000 or more be filed within 48 hours. We hope to pick up on the public record more large contributions in a shorter period of time. Fourth, we would eliminate the two reports now filed fifteen and five days before an election and replace them with one report filed 10 days before an election. It is a small change, but it would mean greater public disclosure through a more simplified filing procedure.

Pursuant to an amendment I successfully offered in 1971, several federal regulatory agencies have issued rules restricting the extension of unsecured credit to candidates who use regulated businesses such as airlines, telephones and telegraph. The campaign of 1968 simply spawned too many debtors. The bill we are offering today would move a step further. When any debt is compromised, that is, settled for less than full value, the candidate must file "a statement as to the consideration for which any such debt is extinguished or a statement as to the circumstances and conditions under which any such debt is cancelled."

The second bill we are offering would exempt the equal time requirements in the broadcasting law for all federal offices—President and Vice President, Senator, and Representative. This is the only fair way since each office should be given the fullest possible exposure through the medium of broadcasting. Once again, I would remind the Senate that this proposal was previously adopted by a vote of 71 to 21. The House of Representatives did not support our action and the entire matter was dropped in the conference committee.

I believe it is terribly important to give the broadcaster an opportunity to present the candidates' views to the public without giving time to every marginal candidate in an election. The public is the real loser if we don't do something to make free broadcast time available to legitimate candidates.

Our bill would also expand the definition of a legally qualified candidate to include persons who have publicly announced for office or have knowledge that contributions and expenditures have been made in their behalf. This new definition would cover those candidates who sometimes fly under false colors as "noncandidates".

The bill would also direct the Federal Communications Commission to study the effect of the equal time suspension on both the Congressional and presidential campaigns. Congress would receive reports at the end of 1974 and 1976.

The third bill we are offering is substantially similar to a proposal we submitted two years ago dealing with campaign mail. We now propose to offer all candidate is eligible for office. In other words, if he is a Representative, he could piece of political mail at rates currently paid by non-profit organizations.

Generally speaking, a candidate would be permitted to have two mailings, equal to the voting age population, prior to any election. Minor party candidates would be allowed a similar mailing, but only half the number of pieces. This bill stipulates that mail can only be addressed to persons in the area in which the candidate is eligible for office. In other words, if he is a Representative, he could not take "soundings" with reduced-rate mail if he was only interested in a Senate seat. He would have to qualify first.

I feel that all candidates, both incumbents and challengers, ought to be given the opportunity to communicate with the electorate in this unique way. Only through the fullest presentation of different political points of view can the public make the best choice.

The fourth bill we are submitting deals with the tax treatment of cash contributions to a political campaign. Current law now subjects contributions in excess of \$3,000 to a federal gift tax. What this had done is to encourage donors and donees to route many contributions of this size through numerous "committees of evasion". To encourage full reporting and disclosure, and to simplify the filing requirements for candidates and political committees, the bill exempts all cash contributions from the gift tax. The revenue loss here is minimal, perhaps even nonexistent. However, the benefits of this new bill would far outweigh any loss in revenue to the Treasury.

Mr. President, the current campaign finance law is beginning to take hold, but changes are necessary and there is room for improvement. Hearings will soon be held on some pending legislation in the Senate Commerce Committee. My own Rules Committee will probably hold some hearings a little later. I hope that through this process we will be able to improve upon the present law without undermining it.

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#### STATEMENT OF HON. CHARLES MCC. MATHIAS, JR., U.S. SENATOR FROM MARYLAND

Mr. President, January 16, Senator Stevenson and I introduced the full disclosure bill, a bill which attempts to change some of the prevailing public attitudes about federally elected officials which have become so dominant in the last decade—attitudes, which were particularly evident during the 1972 campaigns. Senate bill 397 provides for complete disclosure of the financial activities of Members of Congress. If enacted, we are confident it will assist the public in making realistic political judgments and contribute to restoring the needed confidence in the American political process.

In addition to taking the political pulse of the Nation, the 1972 elections witnessed the operation of a new comprehensive law aimed at regulating Federal elections. On February 7, 1972, the President signed into law the Campaign Reform Act of 1971. In this act, Congress for the first time in its history attempted to provide an effective means by which the public can adequately judge a candidate's campaign practices as opposed to the past practice of hiding the can-

didate's financial ties behind the officialdom of phoney committees and deceptive practices. The act provided, among other things, a systematic means for the candidate to disclose to the public the amount of political contributions and expenditures made during particular periods of the campaign.

My interest in creating an effective means to regulate Federal campaigns is well known in the Congress. Senator Scott and I on February 25, 1971, introduced Senate bill 956, a most comprehensive bill dealing with campaign practices. The majority of that bill is now contained in the present Campaign Reform Act along with 18 amendments which I offered to that bill when it was considered on the floor of the Senate. I was most happy to contribute to passage on this legislation and it is with this same sincere interest that today, along with my distinguished colleagues, Senator Scott of Pennsylvania and Senator Stevenson, I introduce the 1976 campaign reform amendments. These amendments reflect our collective judgment of the application of the existing act in the 1972 elections as well as the reintroduction of concepts which have previously been the subject of extensive congressional and public debate, but are felt once again to be important enough to warrant consideration.

It should be noted that for the sake of convenient committee assignments, we have introduced four separate bills. The major bill entitled "The Federal Campaign Election Act Amendments of 1973" with its nine categories and seven sections, deals exclusively with amendments to title III of the Federal Election Reform Act of 1971, while the other three bills deal with the separate subjects of: Amendments to the Internal Revenue Code; mailing privileges; and amendments to the Communications Act of 1934. I will now discuss each of the four bills.

#### I. THE FEDERAL CAMPAIGN ELECTION ACT AMENDMENTS OF 1973

Section 2. The establishment of an independent elections commission and a central campaign committee.

During the debate on the current Campaign Reform Act, a key issue was the manner in which the act was to be monitored and enforced. More fundamentally, the issue centered around the independence of the enforcement effort apart from the influence and control of Congress and the political process. Recognizing the critical need for effective and impartial enforcement, I supported an amendment which established an independent commission as a substitute to the committee proposed and the now present arrangement of dividing the monitoring of the act between the Justice Department and the three supervisory offices—the General Accounting Office, the Clerk of the House, and the Secretary of the Senate.

Under the existing law, all candidates for the Senate transmit their campaign reports directly to the Secretary of the Senate. In the case of Delegate or House races, all candidates are responsible to the Clerk of the House for filing reports. In Presidential races, this reporting responsibility is overseen by the General Accounting Office. The GAO also acts as a national clearing house for information with respect to the administration of all Federal elections. The Justice Department is charged by the law with the responsibility of prosecuting any violation brought to its attention by any one of the three supervisory offices. Section 308(d)(1) of the law states in clear terms that the Justice Department "shall" institute a civil action in these cases. In other words, the Justice Department should have no opportunity to exercise its discretion in the case of providing civil remedies. However, in the case of criminal sanctions, it appears from section 308(a)(12) that the Justice Department has complete autonomy to decide whether or not it wants to prosecute. I am aware of one civil action commenced by Justice, and it is well documented that the Department has proceeded criminally on only a few violations in response to literally thousands of complaints from the three supervisory offices.

The problem of this tripartite arrangement was aptly summarized in testimony by Sam Hughes of GAO when testifying on December 5 before an Ad Hoc Committee on Congressional Reform chaired by Senator STEVENSON and I, when he said, with regard to the role of the Justice Department:

"The question . . . is whether any Attorney General of any party is in a position to go after the finance chairman of his boss' campaign committee, or for that matter whether he is really free to go after the finance chairman of the opposition party. He is not an unencumbered enforcement official, at least as I perceive it. I think that would be true no matter which party were majority party in the Congress and which party were represented in the White House."

Mr. John Gardner of Common Cause went on to say:

"It seems to me that that would be much less of a problem if we were not saddled with an extremely unfortunate tradition of a highly political Department of Justice."

With only one full-time attorney working in this campaign enforcement effort, it is little surprise that Justice has done so little. The need for an independent role is vividly apparent.

The amendment which we are today offering for consideration adopts the spirit of the Pearson amendment introduced during the last debate but goes one step further to assure complete independence of the enforcement effort. As submitted today, a six member commission and staff will have plenary enforcement and monitoring powers in all Federal elections. All campaign reports now required under the act will be transmitted directly to the Commission for review. The Commission will decide whether a report or the operation of a particular campaign is in compliance with the law and, it, in turn, will have the authority to proceed on any violation. The Department of Justice will have no role whatsoever, except, of course, from the standpoint of technical advice. It is intended for the Commission to take the enforcement of the Campaign Reform Act out of the political arena and into the hands of an impartial professional staff.

The Commission's six members are to be chosen by the President with the advice and consent of the Senate. Not more than three can be members of the same political party. Section 309 of the proposed amendment clearly defines the Commission's duties and powers. It is given the power to investigate, subpoena, administer oaths, prosecute, and other reasonable functions incidental to its objective of maintaining compliance of the 1972 act.

One of the purposes of the Commission is to coordinate and centralize the reporting functions under the act. The creation of a "central campaign committee" can assist the Commission in this objective, and Section 31 contains such a proposal. Under present procedures, each political campaign committee raising or expending over \$1,000 must transmit reports to its supervisory office. Each candidate may have more than one political committee and, in fact, the Federal gift tax regulations encourages the proliferation of committees. I will discuss this area in my remarks. When the candidate does operate under numerous committees which accept and spend contributions in his behalf, such an arrangement results in paperwork, redtape, and expense for everyone.

Section 310 of this proposed amendment creates the concept of the central campaign committee. While not outlawing or discouraging the creation of political committees, it does correct the reporting confusion produced by the present arrangement by consolidating each candidate's reports prior to transmittal to the supervisory officer or the Commission, as the case may be. This bill requires each candidate for Federal office to have a central campaign committee for the purpose of reporting all information as required under the act to the Commission as opposed to the many reports filed by each of the candidate's political committees. In operation, each one of the candidate's political committees would file its reports to the central campaign committee which, in turn, would forward the information to the Commission, thus making the route to the Commission direct and as coordinated as possible.

This proposal is identical to Amendment No. 279 which I offered during the 1971 debate. Most experts in the field consider this procedural change a crucial one from the standpoint of streamlining the operation of the current law.

Sections 3 and 4: Amounts to be reported and the times for reporting.

Under the present act, contributions "in excess of \$100" must be reported to the supervisory officer by the treasurer of the political committee for review by the public. During the 1971 debate on this act, I felt that the "in excess" provision shielded a good number of \$100 contributions from the public's view and as a result, I offered Amendment No. 284 to change the wording to "100 dollars or more." This amendment passed the Senate; however, it was deleted in the conference committee. Today, I offer the same amendment.

It would seem logical that a person would be more apt to give a contribution in the amount of \$100 rather than \$101, and if the objective of the law is to disclose to the public, contributions of the \$100 level, we are defeating the purpose of the act by keeping this present language. I look forward to the GAO report which will detail the categories of contributions in order to determine how many \$100 contributions during the 1972 elections avoided the public scrutiny.

Under the current act, financial statements are submitted on the 10th of March, June, and September and 5 and 15 days prior to a primary, special, or general election. Today, we offer an amendment which will change the reporting

dates to the 10th of April, July, and October, and 10 days prior to the special, primary, or general election. The final report required by the act on January 31 remains unchanged.

The amendment is responding to complaints about the costly and cumbersome process of fulfilling the reporting requirements. By moving the monthly reports up one full month from March to April, we are assured of more accurate and timely accounting of campaign expenses. And by combining the 5- and 15-day reports prior to the election to one report 10 days prior to the election, we would be alleviating many of the redtape complaints.

These sections makes two additional, important changes with regard to reporting. First, it requires the reporting of contributions within the last 10-day period of \$2,500 or more to the Commission or the Supervisory Office as the case may be, within 24 hours of receipt as compared to the present \$5,000 cutoff point. This proposed change provides another reason for excluding one of the two final preelection reports; it also discourages last-minute large contributions. Second, these sections respond to the problem of an organization which gives money to candidates in more than one State.

Under the present act, a political committee must file reports to its supervisory officer 5- and 10-days prior to a general, primary, or special election—under these proposed amendments, they would report only 10 days prior to the election to the Commission. It is not inconceivable for one political committee engaged in campaigns in more than one State, to be required to file as frequently as three or four times during one particular week—causing innumerable hardships and expenses. The amendment which we offer today permits the Commission to waive the reporting dates for these multi-State committees with the proviso that they cannot require the filing of reports less frequently than once a month. Such a waiver could come from either the particular interstate committee, the candidate—in the case of a Presidential candidate—or upon the Commission's own initiative.

#### Section 5. Compromising a debt.

Section 304 of the current law provides that all debts are to be reported until they are extinguished; however, the means or the consideration by which they are extinguished are not reported. Under the law, one can forgive a debt or pay token consideration for its satisfaction, and the report will only indicate that the debt was satisfied or extinguished. Section 5 requires that when the debt is canceled, that the report indicate the amount of money or consideration for which the debt was extinguished or a statement as to the circumstances under which the debt was canceled.

The purpose of this amendment is to assure that the candidate's financial reports accurately reflect the character of every contribution and the purpose of every expenditure. I offered amendment No. 278 during the 1971 debate on this act which had a similar objective.

#### Section 6. Reports by certain member organizations.

With every technical piece of legislation, one is apt to encounter technical loopholes. We have identified one.

The loophole occurs when an organization like an investment club or some organization not organized for the purpose of influencing an election, uses some part of its due to influence the outcome of an election. Under such circumstances, if the organization collects or spends over a thousand dollars, it qualifies as a political committee and, thus, must report to its supervisory officer. In such a case, however, the dues-paying member is shielded from the public view. In other words, if an established social club—or one established to circumvent the law—diverts some of its regular—or irregular—dues for the purpose of getting Mr. X elected to Federal office, the club, if it spent over \$1,000, would file as a political committee; however, as a committee, it would be required only to file the names of its officers. It would not be required to disclose the names of the members of the organization who have paid the dues which eventually became a contribution for Mr. X. The only possible section which would outlaw such a shield it seems to us, would be section 301 which prevents the giving of money in the name of another. This is the provision which is supposed to prevent the pass-through donation. But like most pass-through gifts, enforcement is virtually impossible. Section 6 corrects this loophole by requiring the reporting of names and addresses of members of a non-political committee which attempts to influence the outcome of an election.

Let me speak for a moment on the general subject of "pass-through" donations. This is a serious problem and it deserves more than a passing comment.

## THE PROBLEM OF PASS-THROUGH DONATIONS

Though no legislation is now being offered to correct this particular problem, I feel it is important at least to discuss the ways in which we feel the problem can be remedied.

The problem occurs when a donor gives to another—either a political committee or another person—under the act, when a person gives or accepts more than \$1,000, he becomes a political committee—and this immediate recipient in turn gives the donation to a candidate's political committee according to the wishes of the original donor. This method of giving results in the original donor being shielded from a relationship with the candidate who ultimately receives and spends the money. The intermediary step passes through the original. What is reported and disclosed in these cases is that first, the original donor gave to "X" or X's political committee and second, that the political committee gave the donation to "X" candidate.

Although the most common example of this practice occurs when a national political organization or committee receives a donation under the instructions to give it to candidate "X", a more sophisticated use of this evasion occurs when a donor gives to a person outside the country and this person, in turn, gives the money to a recognized domestic political committee representing a particular candidate. Of course, the evasion can take place anytime a donor uses another or a series of persons to shield his contribution.

This practice is a violation of law: section 301 prohibits the giving of a contribution in the name of another. After much thought, it was concluded that a legislative remedy is impractical—except, of course, to impractically outlaw political committees or to prevent the fugibility of donations over a certain amount. A better remedy to this problem, we feel, is the establishment of a strong, independent Commission with effective enforcement and monitoring capabilities. We want to alert the Congress to this problem and offer the creation of the Commission as one means of solving it.

Section 7. Additional appropriations are authorized to carry out the additional purposes of this act.

## II. AMENDMENT TO THE COMMUNICATIONS ACT 1934

## Section 2. Definition of candidate.

During the 1971 debate, I offered amendment No. 271 which was subsequently narrowly rejected by rollcall vote. The amendment called for a new definition of the term "candidate" as it applies to the act. We now reintroduce that amendment to title I of the act and once again will ask the Senate to reconsider its merits.

The definition of the term "candidate" particularly significant in title I of the act for it triggers the media spending limitations for the candidate. In title I of the current law a "legally qualified candidate" is one who first, meets the qualifications prescribed by the applicable laws to hold the Federal elective office and second, is eligible under applicable State law. This narrow definition is contrary to the more inclusive definition contained in titles II and III where a "candidate" is defined in terms of "accepting contributions or expending money to influence one's candidacy or having the knowledge of another doing same. To contain a more narrow definition applicable to spending limitations than to the title's dealing with criminal sanctions with reporting and disclosure, seems inconsistent and contrary to the objectives of the act. Furthermore, the FCC contains a definition of a "candidate" which is broader in scope than the one contained in title I and one which is equal in scope at least to the one contained in titles II and III. It could be argued quite persuasively, I think, that the new legislative definition would pre-empt any regulatory one. It is also perplexing that title II contains a similar definition to that contained in title III, for it is here in title II that the act contains the other spending prohibition—that is, the prohibition of a candidate contributing to his own election beyond certain prescribed amounts.

The narrow definition in title I permits unlimited spending during a time when a candidate might be a candidate in every way except formality. Under the definition contained in title I, a candidate can meet the first criteria of qualifying under Federal law, say, in the case of a Senate election, by merely being 30 years of age and a natural born citizen. The second criteria of qualifying under applicable State law varies, of course, from State to State; how-

ever, in some States, it is the responsibility of the candidate to file a petition followed by a period of grace when the petition is considered by State authorities. In this latter case, we encounter the most obvious example of permitting the candidate to have a "Roman carnival." During this interim period, he may spend what he wants without any statutory limitations, and only when the State acknowledges the petition and the candidate is registered does he formally come within the purview of the statute.

However, the point is that in this definition, the criteria requires only affirmative action therefore permitting the candidate to be a passive, unannounced, or informal candidate for any period of time—accepting and spending contributions given to influence his candidacy without regard to any spending limitations. Because of the inconsistent coverage in titles I and III of the act, it would not seem improbable for a candidate, during this unrestrained period, to be required to file reports under title III.

Certainly the application of the law should commence at the first act of candidacy or the last act of noncandidacy. Clearly, however, this definition permits one to act like a candidate in the eyes of the public and, at the same time, hide behind the cloak of loose legislative draftsmanship. Obviously, if all States allowed written candidates, it could be argued that the problem would not exist for then the candidate, by his mere presence, would, as a matter of law, have qualified under State law; however, this is obviously not the case.

The amendment which we are offering today would add a new and third criteria to this title I definition of "legally qualified candidate." The new addition would cover the candidate who has publicly announced, or has knowledge that another person or political committee has received contributions or made expenditures in behalf of his candidacy. This addition would restore the public's right to know what the candidate is spending once he begins to act and function like a candidate for Federal office.

#### Section 3. Equal time clause.

Section 11 repeals the equal time clause of the broadcast law for all Federal elections. Accompanying this repeal is the proposed creation of a study commission to review the repeal of the law. The Commission will report back to the Congress in December of 1974 and 1976 after the respective congressman and presidential races. This section is similar to one contained in Senate bill S. 956 as introduced by Senator SCOTT and I. The reasons for the need of such an amendment have been discussed many times on the Senate floor and need not be discussed at length at this time. The need for the repeal of the equal time clause relates to the need of "fairness" and "accountability" which is in the general spirit of underlining the broadcast law.

### III. THE CAMPAIGN MAIL ACT

As contained in previous campaign reform bill introduced by Senator SCOTT and myself, we are once again offering for consideration a bill which would provide limited franking privileges for all candidates for Federal office. This bill is similar to the bill contained in Senate bill S. 956 as well as amendment No. 291 offered during the 1971 debate. Although there has been much debate on the need for such a privilege on the floor of the Senate, the last congressional hearing on the subject of franking privilege occurred in 1966. I am told that the House has scheduled hearings for this month. I am glad to see this development. We have clearly waited too long, and the time is ripe for congressional action.

The creation of such a privilege will provide the public with better exposure to all the candidates and, thus, elect officials who are more responsive to the public interest. It will go a long way in undoing the great advantage which an incumbent has over a challenger, and, more than anything else, the passage of such a bill would indicate to the public that we, in Congress, are interested in fair play. It will tell them that we do not feel like we "own" any office and, like every other elected public servant, we are always compared to our opponent and subject to the public's approval.

This proposed act provides a franking privilege for candidates in Federal, general, special, and primary elections. The amount of free mail depends upon whether one is a major or minor party candidate. A major party candidate is one whose candidate in the preceding general election for the same Federal office received at least 30 percent of the total number of votes cast. A minor party candidate is defined as one which is not a major party candidate. A major party candidate is entitled to mailing privileges in any general or special election equal to two times the number of eligible voters in the jurisdiction in which the candi-



date is running; however, in order to receive the same privilege in any primary, he must obtain, if it is an election for the Senate or the House, the signatures of 5 percent of the eligible voters in the State or district in which he runs for election. In the case of a Presidential race, he must obtain the signatures of 2 percent of the eligible voters in the State in which he wants the mailing privilege to apply. In the case of a minor party candidate in general, special, and primary elections, he is entitled to mailings equal to one times the number of eligible voters in the jurisdiction which he is running; however, in the primary, the same percentage of signatures must be obtained by the minor party candidate to afford himself of the primary mailings in any of the above mentioned Federal elections.

#### IV. AMENDMENTS TO THE INTERNAL REVENUE CODE—EXEMPTION OF POLITICAL CONTRIBUTION FROM THE FEDERAL GIFT TAX

Under the present tax rules, a political contribution over \$3,000 is subject to a Federal gift tax. As I have previously mentioned, that rule has been systematically circumvented by the creation of numerous political committees. As a result, a donor who wishes to contribute more than \$3,000 to any particular candidate can give less than this amount—any number of times—to numerous political committees. This overt evasion of the law creates a situation as in the Corrupt Practices Act where the law is being consciously violated at the expense of the credibility of the entire Federal effort.

Section 10 exempts political contributions from the Federal gift tax. This, in my mind, is in keeping with the general spirit of the law which encourages voluntary disclosure while not discouraging large contributions. Furthermore, it is absolutely essential that we do not create another feeble Corrupt Practices Act; we need respect for this law. The present act with this particular circumvention clouds and colors the entire act. Of course, an alternative to this suggestion would be to outlaw political committees, an alternative which, in my mind, is entirely unworkable.

Mr. GARDNER. Senator Baker, you interrupt just at the end of my testimony. I am finished.

Senator BAKER. I usually do better than that.

The CHAIRMAN. Mr. Chairman, could I ask a question because I have to go to another meeting.

Senator PASTORE. Certainly.

The CHAIRMAN. You discuss the matter of the Democratic Congressional Campaign Committee in the House and the senatorial campaign committees in the Senate. And I believe you use the word "laundering" of funds. But you also talk about earmarking.

Now, twice over the years I have been chairman of the Senate Democratic Committee. The Republicans had one, and we had one. And we sort of rotate everybody whenever we have anyone that is running, he would be ineligible—the theory being he might channel all the funds to himself if he was the chairman.

But I wonder what suggestion you have to make on this usually—and I say this because I know what I am talking about. The contributors to the Democratic and Republican senatorial campaign committees are people that want to see a Republican Congress or a Democratic Congress. That is their prime basis.

Now, they may have a favorite, and usually—I have no reason to disbelieve this—the funds, which are small in amount when we are considering a campaign—are distributed by the campaign committees meeting as a whole, usually to 8 or 10 Senators. They are distributed on the basis of where the Democrats think they have a better chance to win, and, therefore, a little money would be helpful.

I have seen it end up so that what little money is left is given to a small populated State because it looks like the Democrat has a chance. And the Republicans do the same thing.

Now, I do not want you to answer, you need not. But I would like a suggestion from you—and there is some earmarking, understand that—I did not find too much of it, but I did find some of it. A contributor says I am putting this in, but I want this to go to Senator A's campaign. Senator A may not now need it, and I have seen times where Senator A has said, "I do not need it and, therefore, you put it in the pot to distribute it where you think it is best."

Now, that has happened many, many times. Where the money has come in for, say, a southern Democrat senatorial candidate where in some cases they were all selected, they won the primary and had no more problems. But I would like your suggestion on whether we should cut the earmarking of contributions and let the campaign committee decide where it thinks the money should go. Because they are fighting for a Democratic Congress and the Republican is fighting for a Republican Congress.

There are always a lot of complaints no matter what you do. Somebody said somebody else got money. But it does not amount to too much in the long run of a campaign. And I would like your suggestion on that.

I think maybe that the earmarking might be something we can clean our own house on. You do not need a piece of legislation. But we cannot only clean house; we can establish better rules.

Mr. GARDNER. We want to see earmarking treated as a direct contribution.

Mr. Guido, would you care to comment on that?

Mr. Guido has handled our suit on this matter.

Mr. GUIDO. Yes, Senator, we are very concerned about the problem of earmarking contributions. It is a way of concealing the identity of the original donor from the candidate. The lawsuit is an attempt to clarify the regulations so that that practice would be—

The CHAIRMAN. You see what I mean? And I think the committees would serve a better purpose anyway. It would not abolish them regardless. It would serve a better purpose because then in my zeal as chairman to elect a Democrat and Senator Baker's zeal to elect a Republican, we would try and distribute the money where we think it was needed the most rather than by one who may not need it.

And I appreciate this suggestion. We can establish our own guidelines on that, too.

Excuse me, Mr. Chairman.

Senator PASTORE. That is all right.

Senator Baker.

Senator BAKER. Thank you, Mr. Chairman.

I think I have had my turn. Could you defer to Senator Stevens?

Senator PASTORE. Well, we will go back to Senator Hart first.

Senator HART. Thank you, Mr. Chairman.

As was true, as Secretary Gardner said, in the fight for the 1971 act, Senator Pastore led the way and his willingness to undertake these hearings on further legislation, it is all to the good. Needless to say, I am grateful you had a kind word about the public funding approach that I put in yesterday. And I just want to react by saying that I do not believe it is the end and the answer either. I know that the goals that Common Cause has in the long run are desirable. It is the difference between what we would like to have and what perhaps we can manage to get in a decent time frame.

But the purpose of that bill, as you have suggested, is to provide a framework for consideration of public funding of political campaigns, retaining, as you suggest is desirable, control of private participation.

I know Senator Baker has commented that he has strong views in the other direction. He is concerned that this would lead to Government direction of a man and his campaign. I would hope that we could conceive of a system of publicly funding campaigning that would permit the candidate to do his thing, but to do it with money that came from the Treasury, plus modest sums raised in controlled fashion from individuals.

Senator Pastore, in his opening statement, said that suspicion about the integrity of the elective offices being bought remains, notwithstanding what was done in the 1971 act; the democratic process suffers because the voter becomes cynical.

You, Mr. Gardner, say that there is nothing in our political system today that creates more mischief, more corruption, and more alienation and distrust on the part of the public than does our system of financing elections. And I agree with you. This is just the hard, grim truth.

Mr. GARDNER. And the sad thing is that it is the suspicion that is most unfair to those public officials who are conducting themselves honestly.

Senator HART. It is. But if there is an alternative available that will eliminate the appearance of wrong, and good public officials are reluctant to try and get to that point, then they are subject to criticism, too. And I think that public financing is an alternative.

There are, as the chairman said, many reasons why the incumbents—and I have never seen an analysis such as Common Cause has provided here this morning—get 5 to 1 of contributions over the challenger. There are many reasons.

Mr. GARDNER. It is 2 to 1.

Senator HART. Whatever it is—2 to 1 over the challenger. There are many reasons.

As the chairman has indicated, they are in office, and they are more likely to win. And, therefore, they get the money. What does that suggest about the motive of the donor?

Senator Pastore. I did not say more likely to win, Phil. I did not say that.

Senator HART. No?

Senator Pastore. No. I said they are in office, and naturally, it is a human reaction on the part of people to know them, and to make the contribution maybe in larger sums because they think they might win.

Mr. GARDNER. Well, wider name recognition, as Senator Baker said.

Senator HART. But that is hardly, to use a volatile word, an ideological contribution. To some extent it is—sort of an investment based upon anticipated opportunity to have it returned. Who is more liable to win, not what does he stand for. And that suggests, at least with respect to that kind of donor, that he recognizes the influence of the money.

I would certainly hope that Common Cause will pursue that Internal Revenue Service suit that you filed yesterday.

Mr. GARDNER. We are in it now.

Senator HART. And last, Mr. Chairman, there are a great many organizations that are concerned with improving the financing of

political campaigns, including Common Cause. But I know no organization which has undertaken the business of monitoring what has happened to the degree that Common Cause has. The kind of data that they have provided us, I think, will make more solid the case of those who suggest as you do, Mr. Chairman, the need for further improvement in this bill.

I like to think that I have never been influenced by a political contribution. But I am darn sure that there are many people in Michigan who believe I have been. I am just certain that when they look at my returns and see substantial labor contributions that they say, "That is why he votes the way he does."

And I am sure many a labor organization man or trade union looking at the contributions of some others from Michigan from other sources say, "Ah, that is the reason he votes against me."

I hope it is true in neither case. But as long as there is that inescapable suspicion with the taxes, big chunks of private money, we should eliminate big chunks of private money and turn to the Treasury and make it possible for a serious candidate to run for office without reliance on private contributions.

Senator PASTORE. The thing that bothers me in that regard—and this, of course, is not connected with this particular bill, and Mr. Gardner made that explicitly clear—how would you go about financing Presidential primaries? For instance, in the State where you have a primary and you have 15 or 20 candidates for the nomination, would you publicly finance the campaign of 15 people?

Mr. GARDNER. Well, Senator Hart has a solution to that.

Senator PASTOR. Go ahead. I would like to hear this.

Senator HART. The answer is "Yes," Mr. Chairman.

Senator PASTORE. The national nomination, it would be easy. But until you get to that point, how would you do it?

Senator HART. The suggestion I would make is that we require a security deposit to be filed in the case, not of the convention primaries, but contestants, popular election primaries, require the candidate to post a security in the amount of, I think it is 20 percent of the subsidy. If he fails to obtain 10 percent of the vote, he forfeits the subsidy and is indebted for whatever in excess of that was provided him. If he fails to gain more than 10 percent of the vote, he forfeits the security. There is no further obligation.

Now, you are permitted to raise your subsidy funds from a control not in excess of, I think, \$250 an individual. There is an alternative provided to raise that money. But the concept that this is a raid on the Treasury, I know is immediately suggested. A person can say, "If you are going to guarantee everybody have a kitty, you will have 15——"

Senator PASTORE. I am not talking——

Senator HART. No, no. I am not suggesting the chairman is, but I want to respond to the general reaction.

Senator HART [continuing]. You are just guaranteeing a 200-man field in every primary."

For the reasons I have indicated, I think not. But I would hope as the discussion in this committee and the Rules Committee and in the public develops that more and more people will realize—and I said this in introducing the bill yesterday—that "this would be as wise an

investment as a democracy can make. When a politician's success depends on a combination of dollars and votes, the Nation is clearly less democratic than it would be if victory depended on votes alone."

"Congress annually disposes of a Federal budget in the hundreds of millions of dollars and takes actions with tremendous impact on \$1 trillion economy, not to mention their incalculable impact on the values of health, safety and liberty. Surely in that context, public campaign subsidies would be a growth stock for everyone."

Even if you had to fund 100, and if only 80 of them forfeited their security this would be true.

Senator PASTORE. But on the other system, a man on social welfare could never be a candidate.

Senator HART. Yes; he could if he——

Senator PASTORE. Where is he going to get the money?

Senator HART. If he has the capacity to obtain funds from private sources.

Senator PASTORE. There you are. You have got to always go back to private sources.

Senator HART. Indeed, yes, but with a very rigid limit; \$250 a source. The sum would not be the \$2 million that you would anticipate in a major State senatorial campaign. It would be a fraction of that.

I concede that no matter how we sliced it, we cannot have an ideal approach.

Senator PASTORE. And all you stand to lose is \$250?

Senator HART. No. You have been required to make a guarantee amounting to 20 percent of your subsidy. That guarantee can be obtained from private sources, individual contributions, not to exceed \$250. Not to exceed \$250, including the total of the candidate's own family. It is published, it is available. There is a return in the event you perform as an effective campaigner. There is a loss of it if you don't.

Senator PASTORE. So if your subsidy is \$100,000, you expect a man to underwrite it up to \$20,000 in case he loses?

Senator HART. He is authorized—no, in case he fails to get 10 percent of the vote, he forfeits.

Senator PASTORE. That is right, and there again——

Senator HART. Is that better or worse?

Senator PASTORE. That is not the point. Where is the poor man going to get that kind of a bond?

Senator HART. How does he run now, John, that poor man on social security?

Senator PASTORE. Maybe he does not run at all.

Senator BAKER. He runs by getting 25 names on a petition.

If I can say just a word, I expect Senator Hart and I will have additional words to say on this subject later. But I really have some question about the constitutionality of a provision of that sort, that creates a financial obligation as a condition precedent to becoming a candidate for public office. And that is what I understand the proposal to be.

Senator PASTORE. Well, of course, it is.

Senator HART. It only is a condition precedent to getting large sums of Federal money, not to getting on the ballot.

Senator BAKER. Any condition.

Senator HART. You are permitted to get on the ballot under the bill introduced by private funds if you are willing to do it. But if you want to take subsidy, I think constitutionally we can condition a grant on that as a means of safeguarding the purity of the election and the serious candidacy of recipients.

Senator BAKER. But if you can do that, why just elect not to come under the law, not to take the Federal contribution and go out and get the money any way you want to. And are you not back where you started from?

Senator HART. We permit that. We authorize that. If that is the campaign you want to wage, fine. My hunch is that over a period of a few campaigns, public opinion will reduce to a very minimum those who are going to run on private money alone.

Senator BAKER. I have a strong hunch if we think we had an outcry from the public about raising our salary that you "ain't seen nothing" compared to raising our campaign funds.

Senator HART. I am sure the initial outcry will be one of outrage. I am sure if enough of us try to make the point that a major factor in the loss of faith in the performance of this Congress is the fact that there is so much private money invested in us before we get here that people will come to the conclusion that it is a sound way to spend money.

Senator PASTORE. Well, the mechanisms are what bother me. And you say it is going to come up sometime. My own opinion is I hope it comes up in year 2000 because I will not be here.

Senator BAKER. I will bet you are.

Senator PASTORE. Not in year 2000.

Senator HART. Mr. Chairman, I wish it had been the law in 1970. I would have felt much more comfortable campaigning and taking office if I had not had private money.

Senator PASTORE. Well, Mr. Stevens.

Senator STEVENS. Yes, thank you.

Mr. Gardner, you did not read this from your statement, but it referred to the repeal provision on section 611. And you indicate there was a similar attempt to sneak it through the Senate, and it was blocked by concerned Senators. As one of those who tried to get that through the Senate, I take a little umbrage at that statement because we were informed by the union groups who were contractors with the Federal Government under that provision that they could not make contributions, they were contractors under the Manpower Act, under the Outreach program, under other programs.

And although my opponent was endorsed by the AFL-CIO in Alaska and I was running, I felt that their point was very well taken. And I tried to get that bill through the Senate having served on both this committee and the Rules Committee and on the conference committee on that bill.

I had no reason to believe that the intent of Congress was to shut off the power of those unions to make contributions who were in fact contractors with the Federal Government.

Now, I think when you cast an attempt to rectify, to eliminate, a burdensome provision as a sneak attempt, when those of us who were doing it were doing it in good faith, you really do not contribute much to the cause.

Senator CANNON. Will the Senator yield on that point?

Senator STEVENS. Happy to.

Senator CANNON. I would like to join in those remarks completely. I have been working long and hard in this field of election law reform, and I completely resent the inference you made here. And I think that you do no good to your organization, to Common Cause, by using statements such as that because you take the position that everybody else is wrong and you are right simply because you do not agree with them.

Mr. GARDNER. That is incorrect.

Senator CANNON. I take umbrage with that because I felt it was unfair to prohibit union members who work for a Government contractor or employees of a general corporation who is a defense contractor from making voluntary contributions to a fund for political campaign purposes when the employees of another corporation who is not a defense contractor could do exactly the same thing.

Now, if you are trying to be fair to everyone, I think that you would agree that you are being unfair to those people, if you put it in the context of what other people in a similar situation can do if they are not defense contractors.

And I would just go one step further. If the Senator would yield further, on the circular that Common Cause put out with respect to the issue that was up on the floor of the Senate yesterday. I did not notice your name signed to it, and I doubt that you would have signed it. But I found more misleading statements and misinformation in that circular that was put out on the so-called issue of secrecy which the Senate debated on the rule change yesterday. The Senator from Rhode Island put it in very proper context. And I want to thank him for it. But I think that you do your organization harm when you take positions such as you took then, and the language you used in that memo, and in the language you used in your statement here with respect to this issue that Senator Stevens brought up.

And I thank you for yielding.

Mr. GARDNER. May I comment, Mr. Chairman?

Senator PASTORE. Of course, you may. In fact, you have a right to.

Mr. GARDNER. I will certainly look at that memo, Senator Cannon, and review it carefully.

The word "sneak" as we used it had a fairly precise meaning both in the House and in the Senate. This was moved very rapidly without the opportunity for hearings, and we feel very strongly about the process.

Leaving aside the substance and recognizing the opportunity for differences of opinion on the substance, we feel quite strongly when a provision that has been in the law for 31 years is altered and it is known that there is some kind of reasonable other view to be made that hearings should be held. And that is the point we were making.

Senator STEVENS. That is an unfair statement in and of itself. That was not a provision in the law for 31 years. That was a provision we put in that bill. And it was one that was misunderstood by the people downstairs. We were trying to eliminate a wrongful interpretation. And every one of us that participated in that had served, as I said, on the committee that handled the bill. And we were trying to get it through in time for fairness in that election of 1972.

Now, that was not a sneak. And I do not think it can be a sneak when you are operating in the sunshine as you people say. That had to go through the floor of both the House and the Senate, and it had to have people on both sides interested in it.

But I am certain that the concept that stopped it, as a matter of fact, was that something sneaky was going on. And I hope that we will get around to it this year and that the chairman will invite you up to testify. We would like to know your reasons why you think that was sneaky.

But for my own purposes—

Mr. GARDNER. You already know my reasons. Lack of hearings.

Senator STEVENS. We will be glad to have the hearings, but that is an interesting thing—you people are self-appointed in some of these things—that it is amazing the inferences you get. For instance, I am quite interested in some of the things that happened in my State as a result of the fuss that I did make. I find that you have remarked, and I think it was a contribution—I commend you for the contribution in having these volunteers go over those statements. But I want to know what you did do about trying to monitor the expenditures that were made to see if everybody was in fact reporting expenditures.

It seems to me that the net result of what you did was that those of us who did in fact report contributions and report our expenditures and as the Senator from Tennessee says, we created a central place where you couldn't spend a dime and couldn't collect a dime without going through that central place. What did you do about the people who did not do that?

Mr. WERTHEIMER. Senator, we filed over 300 complaints very early in the year regarding failures to file reports or untimely filings. We filed them with the appropriate supervisory offices. And no action was ever taken on any of those complaints.

Senator STEVENS. You miss my point. The failure to file a report is insignificant compared to the expenditure of funds without any commitment to the process that those of us who were filing those reports timely were committed to.

Mr. WERTHEIMER. Senator, we are as concerned about that question as you are. Obviously, one of the single greatest problems in the whole area of campaign finance legislation has been the enforcement problem. We tried to play a positive role by the things we did. Obviously, we could only do so much. And we think the direct problem you are talking about can probably most directly be improved by the creation of an independent elections commission with broad authority to oversee and to bring enforcement action with respect to violations in those kind of problems.

Senator PASTORE. Would the Senator yield on that point?

Senator STEVENS. Yes.

Senator PASTORE. How far do you go with regard to opponents who lose? I mean, do you follow through with your examination?

My experience has been that usually the person who wins, he has to file under the law and is held accountable, of course, in order to take his seat. Because he has to be qualified. Because everybody, either in the Senate or the House is usually brought to account, whereas opponents flout the law just because they lost. Everybody seems to forget it.

Do you go over them with the same vigor?



Mr. WERTHEIMER. We did at the outset. We filed complaints concerning individuals who eventually wound up losing primaries. And as I say, no action was taken.

Mr. GARDNER. There is not much we can do if complaints are not acted upon.

Senator PASTORE. No; I know that. After all, you do not have the authority to enforce the law. All you can do is bring it to the attention of the authorities. And you go to court to bring that about. I realize that.

I was just wondering in those cases, you said you followed up and reported on how many cases?

Mr. WERTHEIMER. We filed approximately 300 complaints.

Senator PASTORE. How many of those were incumbents?

Mr. WERTHEIMER. In Congress.

Senator PASTORE. No, no.

Mr. GUIDO. Approximately five, Senator, were incumbents. I think there were about 295 who were challengers in primaries.

Senator PASTORE. And lost?

Mr. GUIDO. The complaints were filed, and lost.

Senator PASTORE. How many won and lost?

Mr. WERTHEIMER. I do not have the specific figure.

Senator PASTORE. Will you put that in the record?

Mr. WERTHEIMER. Yes, I will.

Mr. GARDNER. Most of the complaints were filed against challengers, and we will give you the figures.

Senator PASTORE. It might be interesting to have that.

Senator STEVENS. Well, I would make another comment about the last election. I am not sure whether the Senator from Tennessee would agree, but I think that once we get everyone in the Senate to run under this new act that the act itself will be changed. The reporting requirements are so burdensome in terms of the compliance with this act that it is almost impossible to run a campaign in a small State. And I say that advisedly.

I think that one of the great problems that we have got is that—and I would hope that you would direct some attention to it—the burden of paper work in a State such as mine, trying to keep track of a contribution that is made in Ketchikan or Barrow and making certain that that money comes to one account or accountable for or trying to get people out in Tok Junction not to go down and put \$100 down and buy an ad in a newspaper we do not even know exists, really, we have little newspapers, little community groups, the burden of this act is so great that it really gets down to the point that you just do not have any control over it.

And it has a loophole in it that is just like a big Mack truck with that up to \$1,000 for a committee. And I do not know how many people abused that. We did not. We did not organize any committees, other than the major one. But there is a loophole in that act. You can do anything you want to if you really wanted to abuse the process.

I think we ought to get away from this concept of having reports. It seemed like they are about every 15 days there in the last 2 months. And that is too much to expect volunteers as a consequence. And that is what I am saying.

As a consequence, I think you ought to do us a service. And that is see how the incumbents spent their money. I spent mine hiring people to keep track of these things in every one of the major cities. And we had more people on the payroll in this last campaign than I have had in any campaign.

I think that the burden is on the incumbent—again, to follow up what the chairman said, if you think you are going to be reelected you are going to pay attention to that law, you are going to have to come here and justify yourself if someone challenges you on the basis of not complying with the law, and that is a severe burden of this act in terms of a candidate. And I don't question at all that the nonincumbents who have, as we have all admitted, lesser ability to raise money, found it impossible in some instances to campaign and to comply with that law in terms of filing and meeting the deadline. And I think you could do us a service if you could analyze those reports in terms of how the money was spent as compared between an incumbent and a nonincumbent.

Senator BAKER. Mr. Chairman, since my situation was mentioned may I just say briefly on this point that at the very outset I was advised by our campaign counsel to employ a full time accountant, which we did. As far as I know, this was the first time any campaign I know of in Tennessee required a full-time accountant. And one of the matters that arose in the course of that campaign was whether the value of their services had to be reported.

There really is a whirlwind of paper required in the last days of the campaign when you are least able to cope with it. And although I am not sure I have any suggestions on that particular point, it is one to which we ought to give careful attention. I hope Senator Cannon will do so in the Rules Committee.

Senator STEVENS. I have one last comment. I agree with what you said and what the chairman has said about the lack of confidence in the process because of the contribution. But I think you could also do us a service if you would compare some of these contributions and see the times that we do in fact vote against the people and their interest, those who have contributed to us.

I think part of the lack of public confidence comes from some of the inferences that are made by organizations such as yours that there is in fact something, you know, unsavory about taking contributions from individual groups. Now I don't know about the rest of these people, but I had contributions from people that I don't know what they do. As a matter of fact, we had to go back and find out what they did in order to comply with this law, and I don't ever expect to see them, but they contributed to me because I was a candidate for the Senate and running in the party that they supported. And the inference that because we have got that contribution—I remember one of them was someone from Philadelphia or someone up there I never met, and someone wrote up one of your reports that indicated that this was some big oil company. It turned out to be a lady that was something like 76 who was the widow of the founder of some oil company. But if you read the paper in Alaska you would think that I had just been bought by an oil company.

I think that some of the inferences that you give in these reports and the way that you dig in and identify them, it is good from the

public interest, but I think there is a balance to it somewhere and you ought to be involved in helping to restore confidence as well as to help destroy it, as far as I am concerned.

Mr. GARDNER. Well, our reports as they hit the public are just the tiniest trickle compared to the enormous amounts of newsprint that is coming out on political scandals, and I can't believe that our attempts to set some of these things in an orderly framework is really a major factor as compared with some of the things we have seen on the front pages in the last year.

Let me say to the extent that the 1971 law contains provisions which place unnecessary burdens of paperwork or deadlines on the candidates—and believe me, I am conscious of that because I travel all the time and I get it from both challengers and incumbents—to the extent that that is true and to the extent that changes will not undermine the purpose of the thing—we are certainly concerned to see those changes made.

Senator STEVENS. Well, I am glad to hear that.

Senator PASTORE. When you get over to an overall ceiling the task of enforcement becomes that much easier. For instance, if a ceiling is \$168,000, the candidate comes in and you can prove that he spent \$250,000, he has blatantly violated the law, and I think you could deny him his seat. I think he should be prohibited from being seated in the Senate because he deliberately violated the election law. But where these abuses come in, where you have to have this rapid and frequent reporting is when we have piecemeal limitation. In those cases so much money can be spent in other directions that it is pretty hard to follow; whereas, if the limit were to go down, say, to \$168,000, why, I would know that is all I could spend and that is what I have to account for. Now the minute I collect \$200,000 I know that I have got \$32,000 more than I need. I either have to give it back or be accountable for it. So no matter when I report it, when I have to raise my hand to qualify in the Senate, what I spend is already known; whether or not I reported it a half dozen times before the election is of no consequence. The fact still remains that if I violated the limit, I take the chance of losing my seat. I think that is the best deterrent that we can have against violation.

Under the present system, of course, that is not the case except in limited categories. Otherwise the sky is the limit, and nothing can be done unless the reporting or disclosure provisions are violated.

Senator CANNON.

Senator CANNON. Thank you, Mr. Chairman. Mr. Gardner, in your statement you say that you do favor the repeal of the equal time provision, and favor going further by repealing the equal time provision for all Federal candidates. I am sure you are aware of the fact that a number of us in the Senate did favor that position, but we were not able to get it passed in the House, and, as a consequence even lost the limited provision.

But I want to ask you this. Would you favor—assuming it does appear we are going to have a difficult problem, would you favor then the equal time repeal just for the Presidential race if something had to go?

Mr. GARDNER. If you can't get beyond that; yes.

Senator CANNON. Now you also say "despite public disclosure, individual contribution continues to provide huge sums for candidates. I was one of those in the past who felt that we ought to have a limit and I must say I changed my views last time, believing that if we had full disclosure, as many people indicated, that would give the public the information they needed to form a judgment. But I am aware of many instances you pointed out, and others, too, where the public didn't really have an opportunity, because the reporting was so light during the election period that the public really didn't know about some of these huge contributions. As a matter of fact, they didn't know about some of them until quite a little time after the election.

And I must say that I am inclined to go back to my original position that perhaps we ought to have some type of a limit on the contributions, though I don't agree with you on the amounts that you have indicated here. I think those are too low unless we do have completely adequate funding through the Federal source, which seems to me is some distance off.

I think we might consider the imposing of some restriction on the persons who do make large contributions. Such as not being eligible for appointment as ambassador; or that their wives would not be eligible for appointment as ambassadors; something of that sort might be helpful in limiting some of the huge contributions.

Mr. GARDNER. And raise the quality of diplomatic representation. Do you not feel also that cash contributions really have no place in a political campaign? We haven't talked about this subject, Mr. Cannon, but I am interested in that in—

Senator CANNON. Well, you mentioned it in your statement. I think that at least as far as the general public is concerned, when they learn of a cash contribution being made or a contribution being made through a foreign bank, or something of that sort it immediately raises suspicions that something is wrong. Regardless of whether there is or there isn't. And even though a person may receive a cash contribution and may fully report it, I think the fact that it was made in cash would raise the question in a lot of people's minds on that particular issue.

You said that you are aware of the early reports that limited taxpayer use of the checkoff is taking place. Do you have any specific information on that particular issue at this point?

Mr. GARDNER. Yes, we do. Do you want to comment on that?

Mr. WERTHEIMER. Just what has been reported has apparently revealed that approximately 4 percent of the first 12 million taxpayers may use the checkoff.

Mr. GRIBB. There is a later figure, Senator, that we haven't had chance to verify yet. Our general counsel informed me just yesterday that 3.3 percent of 27 million had used the checkoff. If you go to any of your local banks or post offices and try to find that 4875 form, as many of people have tried to do, you cannot find that form. Over half of the taxpayers in this country file tax returns on forms procured from the post office or from banks, and you cannot find the forms anywhere of the banks and post offices.

We originally had discussions with Internal Revenue Service about problems with their implementation of the law, failure to include the

check-off on the 1040 form. Assurances were given to us by the General Counsel of the Internal Revenue Service that they would engage in a wide-spread publicity campaign, that they would have the forms readily available in all the post offices and banks and that they would have posters in post offices and banks that had displays. Those seem to be missing at the present time, and we have gone through a great period of time waiting for the Internal Revenue Service to meet its promise to us when we originally discussed with them the possibility of a lawsuit and the need for corrective action to be taken by the Internal Revenue Service, and none has been forthcoming, and that is why it was essential for us to file this lawsuit yesterday.

Senator PASTORE. I have a letter here addressed to me. It is from 2380 Carpenter Road, Apartment 23, Ann Arbor, Mich. It is dated February 2, 1973.

(The letter follows:)

ANN ARBOR, MICH., February 2, 1973.

Senator JOHN O. PASTORE,  
New Senate Office Building,  
Washington, D.C.

DEAR SENATOR PASTORE: I am writing to express my concern with the manner in which the Presidential Election Campaign Fund Act of 1971 is currently being administered. It is my understanding that you originally sponsored the amendment, so I hope you will be interested in this matter.

At the outset I will state that the facts cited herein relate to Ann Arbor, Michigan. It may well be that my experience is not representative, but I suspect it is the same across the nation.

I picked up a set of 1972 tax forms, Form 1040A (short form) and instruction booklet, at a bank while home for Christmas. The Fund was mentioned on the opening page of the booklet. Contrary to my impression that the "check-off" system (with a box right on the Form 1040A) was to be used, the directions stated I would have to file a separate Form 4875 to "participate" in the Fund. No Form 4875 was included in the booklet. I checked two banks and two post offices in Ann Arbor for the Form 4875 but did not find one. Several days later I took off from law school and drove to the local Internal Revenue Service Center. While a display rack and counter contained a variety of forms, schedules, and instruction booklets, there were no Form 4875's. I then waited in line 15-20 minutes and finally was helped by an employee. She produced two copies of the Form from the supply room. I have since completed the form and attached it to my return as instructed.

With no opportunity to indicate "participation" in the Fund on the Form 1040 or Form 1040A itself, and without the necessary Form 4875 being either included in the booklet or available at points of general distribution of tax forms, it is an understatement to say participation in the Fund is not being facilitated. Few people will or are able to take time off to go to an IRS Center. Indeed, how many towns in the country even have a Center? It is possible to write for the form, but how many are willing to go to the effort. It is so easy to just say to oneself, "It's only a buck," and send off the return without Form 4875. I was sorely tempted to do so myself.

The reason I feel some sense of urgency about this is that those who have already filed their returns this year are not allowed to participate. The instructions state that Form 4875 may not be filed separately or with an amended return. It must be attached to the original income tax return. Thus, unless one pursues the matter in the first instance, participation is precluded.

Finally, there is a misconception about the "earmarking" process. Several people with whom I have spoken believed the \$1 would add to their tax or come out of their refund. The dollar in fact, of course, is designated from one's acknowledged tax liability.

There may be legitimate administrative reasons for not including the indication of participation right on the Form 1040 or Form 1040A; but the necessary Form 4875 should be available at general distribution points other than IRS Centers. It may also be that professional tax preparers are amply supplied with the Form—I simply have no idea how many Americans prepare their own returns and how many have them prepared by others.

I believe in the basic idea of the Fund. Making participation inconvenient and confusing, however, will surely deter many from taking part in this grass roots effort at financing elections. If you are able to confirm that my experience is representative, I urge you to bring remedial pressure to bear. I emphasize that since participation must be indicated on the original return, many people each day are missing the opportunity.

Thank you very much for your attention to this matter.

Very truly yours,

ROBERT R. SHEARER.

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[From the New York Times, Feb. 11, 1973]

#### TAX CHECKOFF BOX CRITICIZED BY LONG

WASHINGTON, Feb. 10 (AP).—Senator Russell B. Long, Democrat of Louisiana, says the Treasury Department may have thwarted the will of Congress in the way it is handling the Presidential campaign financing plan.

"We plan to look into this very carefully in the Finance Committee," Senator Long said Monday. "They may even have violated the law."

Mr. Long, the committee chairman, said he was concerned over a decision to put the plan's checkoff box on a separate sheet and not on the main income tax form.

"This way it might be over-looked by many taxpayers," he said. "We certainly intended the box to be on the principal form."

Under the plan, the taxpayer can request that \$1 of his tax payment—\$2 for a couple—be put into a Government fund to help finance the next Presidential election campaign.

He can stipulate if he wants that the money go into special funds for the Democratic, Republican or a minor party, or into a general campaign account.

Senator PASTORE. Now when we debated this matter on the floor it was clearly understood that we would expect a column just before you state your final indebtedness, or after you state your final indebtedness, that would allow what you earmark to \$1 of what you owe, and allocate it under the act that we passed in 1971. Now chances are the Internal Revenue Service did not have enough time to do this because maybe the forms were already printed. But the fact still remains whether they did or they didn't, it should be right on the main form that you file.

You could walk up Constitution Avenue now and meet 50 people and ask them if under the law they can deduct \$1 that they owe the Government to be allocated toward the Presidential campaign, and I will bet you dollars to doughnuts that out of the 50 you ask 50 would say I know nothing about it. There has been no publicity about it. There has been no educational program. It is not included on the form. The form that I received through the mail had an extra form, and you had to put down the social security number, and so forth. They made it so tough for you that it was worth more than the dollar you had to contribute just to take the time and the trouble to fill out the separate form. And all we expected to do is to have a column that would state what you are obliged to do, and not obliged to do. You just put an X there and that would have been the end of it. It would have been very, very simple. But they didn't do that. And I am afraid that apparently the people in the Service were not greatly sympathetic with the law. They did nothing to cooperate or assist compliance.

That is the reason why I think that the results have been rather discouraging. I think there are some people in Congress who are

trying to see the provision repealed, and they are going to more or less use this as the crutch to say that the public hasn't accepted it. How can the public accept something it has no knowledge of?

Senator CANNON. In your outline of the basic ingredients of the public financing law, your third point indicates an overall limit on expenditures for a given race. Have you given any study or any thought to what those limits ought to be?

Mr. WERTHEIMER. Senator, as mentioned earlier, we are in the process of completing our summaries on the amounts of money spent in 1972 for each House and Senate race, and we think that could help shed some important light on the question.

Mr. GARDNER. We are still working on the January 31 data.

Senator CANNON. Getting the correct formula I think is one of the most difficult problems that we have to face up to. For example, under Senator Pastore's suggested formula here in California the limit would be \$3,396,000. On the other hand, Alabama, \$564,000; Alaska \$46,000, the biggest State in the Union; Nevada \$83,000; yet Rhode Island almost doubled, \$165,000 for Rhode Island. And yet a candidate such as myself in the State of Nevada has to travel considerably to cover 110,000 square miles; and, of course, that is just a drop in the bucket compared to Alaska.

Senator STEVENS. I paid \$3,500, I think, 3,000 something, for a charter to go visit about four cities in Alaska 2 or 3 days in the campaign, and I don't think there were more than 1,000 people that were eligible to vote in the whole area. And this is why I have some question about the limits of the bill. I think you have to leave it up to the candidate to make the determination of whether the expense is warranted in terms of the overall campaign, and yet this limitation is so small for some of us that have other expenses other than media. I think they are primarily related to media expenses, and if you limit your bill to that I could understand it.

Mr. GARDNER. Are you suggesting, Senator Cannon, that perhaps we should have in mind the possibility of a formula that included geographical size?

Senator CANNON. I think you have to take into account the unusual circumstances that exist in some of the States. I don't know whether the correct formula would be one on the size of a State, or the population dispersion or what sort of thing. In last year's law we wrote an "and/or provision," to use a floor of \$50,000, or 10 cents times the eligible voters, whichever was the greater. This was to take care of the small States. And, of course, that was just with respect to the communication media.

Senator PASTORE. I merely want to say to the Senator from Nevada that he has raised a good point. We deliberately left it out because we wanted that discussed. We don't have that formula and I think it should be part of the formula. You know, we did that in the 1971 bill. We used the and/or, and I think we should. It is harder to campaign in some smaller States than in others. My State, I think has the largest population per square mile of any State in the Union, and yet in area we are very small. And in Nevada I think their population is maybe one-fifth of ours, but the land mass is so how many times more. And you have to travel those miles. Whether it is for five votes or for 5,000, it is just as hard to get there.

Mr. GARDNER. Right.

Senator CANNON. If I may correct my distinguished chairman, Nevada is one-half the size of Rhode Island the voting population.

Senator PASTORE. Well, you have grown a lot since you got Las Vegas. That's all I can tell you.

Senator CANNON. You are absolutely right.

I find a little difficulty in reconciling your paragraphs 4 and 6. The one being an end to organized committee giving and to all forms of pooling contributions, and the other advocating a role for the political parties in the financing of general elections. It seems to me that the role for the political parties really is a pooling or organized committee giving. Would you elaborate on that a little?

Mr. GARDNER. I would like to have Mr. Wertheimer comment, but we are really thinking in terms of special interest group committees rather than political parties.

Mr. WERTHEIMER. The concept involved there is that political parties should be exempted from any prohibitions against pooling, that there is a legitimate role for political parties to play in the financing process. Therefore they should be allowed to raise again limited funds on a limited, restricted basis from a variety of individuals which in turn could play a role in the financing of general elections.

Senator HART. You would conceive of a limitation on the amount that any individual could contribute to a political party?

Mr. WERTHEIMER. That's right.

Senator HART. But free the party to make large, small or medium contributions to an individual on the theory that the political party is exempt from this suspicion that attaches to individuals who give big lumps; is that right?

Mr. WERTHEIMER. That's right, Senator, and all coming within the final overall limitation, however, that any candidate could spend on a race.

Mr. GARDNER. It is the party's business.

Senator CANNON. Thank you, Mr. Chairman.

Senator PASTORE. Thank you very much.

Mr. GARDNER. Thank you, Senator.

(The statement follows:)

#### STATEMENT OF JOHN W. GARDNER, CHAIRMAN, COMMON CAUSE

Mr. Chairman, I would like to thank you and the other members of this Committee for providing the opportunity for Common Cause to testify this morning. Recalling my days as Secretary of Health, Education and Welfare, I reflect with pleasure and gratitude on the many occasions when you, Senator Pastore, came to the rescue of critically important legislation.

This Committee has before it once again the issue of campaign finances, an issue of paramount importance to the well-being of our nation. There is nothing in our political system today that creates more mischief, more corruption, and more alienation and distrust on the part of the public than does our system of financing elections. It allows individuals and groups which seek preferential treatment from government to give unlimited sums of money to public officials who can provide such treatment. It not only allows but often forces some of the nation's most powerful public decision-makers to solicit money from people and groups who will be personally affected by their decisions.

Many citizens contribute to political campaigns out of conviction and with no thought of personal gain. And the best of our elected officials do not permit campaign contributions to affect their decision-making. But unfortunately all too many contributions are made with the intent to influence political outcomes.



The link that so often exists between campaign contributions and preferential treatment by politicians was summed up by Edward Garmatz, former Maryland Congressman who had served as chairman of the Merchant Marine Committee. When questioned recently about the heavy political contributions he received from the maritime industry, he said "Who in the hell did they expect me to get it from--the post office people, the bankers? You get it from the people you work with, who you helped in some way or another. It's only natural." Congressman Carl Holtfield expressed it another way, in speaking of lobbyists. He asserted (as quoted in the *Los Angeles Times*) that if they didn't help fill campaign purses "the power of lobbyists would be practically nil."

Growing national concern over the scandal of campaign finances brought enactment of the Federal Election Campaign Act of 1971, the first major revision of federal campaign spending laws in nearly a half century. This Committee, under the leadership of Chairman Pastore, played a critical role in passage of that legislation. The effort was truly bi-partisan, with Republicans and Democrats in both bodies of Congress playing key roles to achieve the final result.

One national election has now been carried through under the new Act, and there are grounds for two fundamental conclusions. First, the 1972 experience has shown the unquestionable importance of the new law in making available information about campaign finances; second, it has demonstrated the need to move far beyond that law if the root evils of campaign financing are to be successfully eliminated.

In this regard, Senator Pastore, we support your efforts to repeal the equal time provision for presidential elections. Such a step will surely help to raise the level of discourse and provide for a more meaningful exchange of ideas. We would go further however and urge the repeal of the equal time provision for all federal candidates, as has been proposed in legislation offered yesterday by Senator Hugh Scott and Senators Mathias and Stevenson. We also support your concept of an overall limit on expenditures in a given race, and applaud your statement supporting a ceiling on individual contributions. Despite public disclosure, individual contributors continued to provide huge sums for candidates. According to available public information, President Nixon's top ten contributors gave more than \$4 million, and the top 100 gave \$14 million. Senator McGovern also received major individual contributions and found in October, 1972 the need to specifically solicit these large contributions. He said at that time "We've reached a period now where we have to get large amounts of money fast."

We believe, however, that expenditure ceilings must be imposed in the context of a broader program that will provide for public financing of federal elections. The concept is, of course, not new to federal law. Last year Congress enacted the \$1 tax check-off provision for presidential elections—an action in which Senator Pastore again played a leading role.

We are aware of the early reports that limited taxpayer use of the check-off is taking place. We are also aware that this is going to be used as a means of arguing that the public does not want public financing. But the truth is that the check-off has not yet received a fair test. Yesterday, Common Cause filed suit in federal district court against the IRS for failing to place the dollar check-off on the 1040 and 1040A forms as intended by Congress and for failing to make appropriate efforts to inform taxpayers about the check-off. We believe that these IRS failures were a major factor in reducing the use of the check-off; and have sued so that these failures may be corrected as quickly as possible. In some measure, federal financing of elections is already a fact—not duly legislated federal subsidy but furtive subsidy courtesy of the IRS. Many donors contribute in the form of appreciated stock, and the IRS permits the candidate to sell the stock without paying the capital gains tax. This extraordinary complicity of the IRS in matters of campaign financing is also manifested in its winking at those who evade the gift tax by fragmented gifts to multiple committees.)

The basic ingredients of public financing legislation should, in our opinion, include the following:

1. the provision of ample federal funds for the conduct of election campaigns by qualified candidates.
2. a very limited role for private contributions including a strict limitation on individual gifts, such as \$100 for House races, \$250 for Senate races and \$500 for a Presidential race.
3. an overall limit on expenditures for a given race.

4. an end to organized committee giving, and to all forms of pooling contributions.
5. a bar to the transfer of cash in political campaigns.
6. a role for the political parties in the financing of general elections.
7. the creation of a hardnosed oversight and enforcement agency to ensure compliance.

Yesterday Senator Phillip Hart introduced a Congressional public financing bill which addresses these fundamental points. We applaud Senator Hart for his leadership in this area and believe that this legislation should become the subject of national debate and Congressional review and consideration. We do not necessarily agree with every one of the positions set forth in the Hart bill. We believe, for example, that his measure should apply equally to Presidential elections, and not be limited to Congress. And we would eliminate the present system of financing altogether, not leaving it as an alternative for those who don't want to go the federal financing route. Despite these differences, we believe the Hart bill sets forth an equitable and feasible program, and provides a vitally important framework for consideration of this subject.

We agree completely with the Majority Leader of this body, Senator Mansfield, who recently said "...I can think of no better application of public funds... than... to use them for the financing of elections so that public office will remain open to all, on an unfettered and impartial basis, for the better service of the nation". The fact of the matter is that you could finance the entire costs of two national Presidential and Congressional elections for approximately the same costs as we presently pay for one Trident submarine.

Among the critics of the present system of financing are many elected public officials and many donors. In conversations we have had with Congressmen and Senators, they have told us over and over again that political fundraising is the most distasteful and degrading part of their jobs. Similarly, numerous business executives, labor union officials, and major individual givers receive pressures from so many directions that they feel they are being shaken down.

In short, under the present system of campaign financing both candidates and givers (willingly or not) are prisoners of a system which exposes them to suspicion and pressure, and legitimizes the exchange of money for political favors.

Last fall Common Cause members throughout the country polled Congressional candidates to get their views on public financing of campaigns. Of the 227 winning House candidates who answered our members, 129 favored the idea of public financing, 73 opposed it and 25 were undecided. This hardly fits the widely expressed view that federal financing of campaigns is not politically feasible at this time.

One can rarely nail down a causal relationship between campaign gifts and later political acts. But the patterns of political giving create a cloud of suspicion that can only deepen the cynicism of the average citizen. Consider some examples:

An analysis of legislation sponsored by the dairy industry and now pending in Congress, shows that of 43 House sponsors, 29 received a total of more than \$110,000 from the dairy industry in the 1972 elections. On the Senate side, of the seven co-sponsors who ran in 1972 either for reelection or for president, five received a total of \$51,700 from the dairy industry. Of the total received by House and Senate candidates, \$33,500 came after the election had occurred. (For the donor, post-election giving has the advantage that the money can be given to a known winner.)

An analysis regarding the AMA sponsored medicredit bill shows that of some 140 co-sponsors in the House, 68 received \$228,000 from the AMA during the previous election, including 5 who are members of the key Ways & Means Committee. On the Senate side, of the 7 co-sponsors who ran for Senate in 1972, 5 received some \$27,500 from the AMA.

Similarly the national health insurance bill sponsored primarily by the labor movement shows 48 co-sponsors in the House, with 47 of them having received \$110,000 during the 1972 elections from COPE committees of the AFL-CIO or UAW. On the Senate side, the 8 co-sponsors who ran in 1972 for Senate received \$100,000 from the same groups.

The Seafarers International Union's political fund (gave \$100,000 to the Nixon campaign just before election day (so that it didn't appear in published reports until January 31) shortly after the Justice Department decided against appealing the dismissal of an indictment against the union for illegal contributions. Moreover, despite the law's prohibition against direct giving by unions, the \$100,000 was obtained through a bank loan to the fund and not from voluntary contributions by union members.

a major presidential fundraiser along with a major contributor received the speediest bank charters granted in the last five years.

Mr. Vesco, the donor of a recently revealed \$200,000 cash contribution to Nixon campaign, also makes clear what campaign contributions are all about. In a deposition from a Nixon campaign leader in New Jersey, Harry Sears, is quoted by Sears as stating that two earlier checks to the campaign for \$10 and \$5,000 were "his way of thank you for the favor that I had done". He called favor—arranging a phone call on Vesco's behalf by then Attorney General John Mitchell. As for the \$200,000 contribution, if it came in after April 7 (as appears to be the case) the Committee to Re-elect the President has reported it under the new law—and if it came in before April 7, as the committee claims, it should have been reported under the old law. Mr. Vesco, incidentally, is presently the subject of a major SEC suit.

Common Cause's effort by Common Cause to bring about a more rational approach to campaign financing has extended over more than two years. In 1971 Common Cause urged the major political parties to enjoin further violations of the \$5000 maximum limitation of individual campaign contributions. Unfortunately, and not by chance, our efforts to have this key restriction enforced were mooted by emotional repeal (in the new law) of precisely those sections of the law we were trying to have enforced. Nevertheless an important precedent was set: for the first time in history, a Federal Court had acknowledged the right of a citizen and a citizen's group to seek legal redress in matters relating to campaign finance laws, where those laws were not being properly enforced by the relevant authorities.

When the Federal Election Campaign Act of 1971 became law, the question was open as to whether it would be enforced. No previous campaign finance law had ever been enforced. Common Cause decided that a lively citizen suit in enforcement might make the difference.

During the political campaign of 1972, Common Cause undertook a major enforcement effort designed to create an atmosphere in which all interested parties would realize that the long tradition of noncompliance had ended. If we succeeded, we made public numerous instances of improper filings and violations of the new law, and filed hundreds of complaints with the supervisors regarding late filings and no filing violations.

We sued TRW, Inc., a major defense contractor, to obtain enforcement of Section 611, a key provision of the new law which prohibits contributions by defense contractors to political office seekers. Our case against TRW was filed when the company agreed to terminate its political fund giving commitment to return the money to the employees who had contributed to it. But our enforcement effort to activate Section 611 was met once again by efforts in Congress to repeal the section of the law under which we had brought suit. The repeal was reported out of Committee in the House and rushed to the floor.

It was approved. But a similar attempt to sneak it through the Senate was blocked by a number of concerned Senators.

We sued the Finance Committee to Re-elect the President for violating the law by failing to make public its pre-April 7 contributions. As a result of the suit, the Committee released, prior to the election, the names of all donors of \$100 or more to President Nixon from January 1, 1971 to March 9. The question of making public the contributions from March 10 to April 6 was in litigation.

Common Cause has also attacked the practice of earmarking or "laundering"

whereby contributions are channeled through conduit committees, thus shielding the original contributors from direct association with the recipient committees. We are presently in court against the Clerk of the House and Secretary of the Senate for failing to enforce the law against earmarking. Between November 1 and October 26 the National Committee for the Re-election of a Democratic Congress received and transmitted some \$415,000 in earmarked funds through the Democratic Congressional Campaign Committee and the Senatorial Campaign Committee. The actual contributors do not show up in the reports of the candidates who received the funds.

Common Cause is fighting to insure public access to the information being filed by candidates. A major Common Cause goal during 1972. The new law made no provision for systematic dissemination of the information, and it was apparent that the candidates would not have the resources or time to do the job by themselves. So Common Cause undertook to help act as a compiler, analyst and distributor of the information.

These activities involved more than 1000 Common Cause volunteers. Summaries, reports and lists of significant individual and group donors were prepared on a nonpartisan basis for each major party candidate in a given race. In addition major surveys were done concerning campaign finance activities of various business and labor groups.

As a result of our work, Common Cause now has comprehensive data on campaign financing for the 1972 elections. This includes copies of every report filed by candidates and committees with the Clerk of the House and Secretary of the Senate—both of whose offices, incidentally, were extremely cooperative with us throughout the year, lists of all itemized presidential donors for the period April 7 through October 28; and preliminary summaries for most House and Senate races and for most interest groups that make heavy campaign contributions.

We are now in the process of preparing complete and final reports, including the information filed on January 31, 1973, for every House and Senate candidate in the country and for each interest group committee. We will make this information public, including summaries and significant contributors for each candidate and interest committee, as soon as possible.

An example of the kind of information now available is the relative financial support of incumbents and challengers.

In a survey covering 275 House candidates and their major party challengers, where both had all their reports in up to October 28, we have found that the average of contributions raised by an incumbent was approximately \$54,000, while the average raised by a major party challenger was approximately \$27,900. Similarly, on the Senate side in a survey covering 25 Senate incumbents and their major party opponents, where both have filed reports through October 28, we found the average amount raised by an incumbent was \$408,000 and the average raised by a challenger was \$195,000. In both cases, incumbents raised roughly twice as much as challengers. (The above data are offered only as an example. They are incomplete in that they do not include the January 31, 1973 reports, have not been completely rechecked, and leave out races in which complete information was not filed.)

We expect that the final record of 1972 will amply demonstrate what many have long believed—that obtaining sufficient political financial support in our present system does not relate to whether you are a Democrat or a Republican, but rather to whether you are an incumbent or a challenger.

We believe that the record of 1972 makes clear the need to end the present system of financing elections. We also recognize that this is an issue that will be hard fought from beginning to end. In the interim, the Federal Election Campaign Act of 1971 remains an extremely important piece of legislation. We have urged that a full scale Congressional review of this Act be conducted based on the experiences of 1972.

Certainly no campaign finance legislation should be considered on the floor of the House or Senate until such a broad review has occurred. We have not addressed ourselves here to specific amendments to the 1971 Act such as proposals to improve and strengthen the reporting requirements and we will save our comments on that subject until general hearings have been scheduled by the Senate Rules Committee. We would note, however, our belief that the single greatest need is for the creation of an independent elections commission with powers of enforcement and subpoena. In this regard we strongly endorse the efforts on behalf of such a commission initiated yesterday by Senators Hugh Scott, Charles Mathias, and Adlai Stevenson, III, with the introduction of this legislation.

Senator Pastore. Congressman Murphy, we are very sorry to have delayed you. We are very much interested in your testimony.

#### STATEMENT OF HON. JOHN M. MURPHY, U.S. REPRESENTATIVE FROM NEW YORK

Mr. MURPHY. Mr. Chairman and members of the committee, I was intrigued by some of the comments, I think particularly the comment that there is such a thing as an average Senate seat or average House seat. I would say if we were going to get to averages it might prob-

ably—as members of the Senate Campaign Committee know, and I as a member of the House Campaign Committee know, there are a number of safe seats. Perhaps some averages on contributions in those areas could be arrived at. But in those seats in both the Senate and the House that we might call swing seats, seats obviously that are necessary for the political control of both parties, are the seats where spending is concentrated; and I don't think incumbents are two to one beneficiaries in those particular areas because in the elections that I have been in personally at no time have I ever been able to raise the funds that my opposition has been able to raise and to spend, and I will go into that in a little bit of detail in my statement.

I think I will paraphrase this statement, Senator Pastore, and just go on to some of the amendments that I would recommend to the act.

Senator PASTORE. Would you like to have your statement put in the record?

Mr. MURPHY. I would like to have it in its entirety put in the record.

Senator PASTORE. Without objection, so ordered.

Mr. MURPHY. We know that millions of dollars go into some Senate seats. I think the highest amount ever spent in a House seat was up around \$500,000. We do know there is substantial spending well above the average voter limit that you have recommended. We do know that we should have an overall expenditure ceiling, and in S. 872 25 cents times the eligible voting age population in the geographical area represented is a pretty good figure. It would probably amount to about \$50,000 in a House campaign. And then, of course, in a Senate campaign it will vary greatly on the size of the State. There probably should be some minimum to equate the transportation cost in, say, a State the size of Alaska and obviously another State the size of Rhode Island because of the different type of transportation cost.

Our experience with the 1971 act suggests that limitations on one aspect of spending has about as much reduction effect as squeezing a balloon, which simply displaces air from one part of the balloon to another, as long as it isn't broken. Similarly, with the imposition of campaign expenditure ceilings in one area of spending—money not spent in that area is displaced to some other area.

If we are to effectively halt the campaign spending spiral, or at least contain it within reasonable limits, say, to cost of living increases, we must move in the direction that you have recommended.

At the same time it is my feeling that it would be a mistake to remove the specific media spending limitations in the 1971 act. Those I think we should retain. Otherwise, we run the risk of a pure media campaign, and I think that is very dangerous indeed. In the past four—

Senator PASTORE. May I interrupt you there? There has been quite a backlash when you get into specific limitations if you also have an overall ceiling. You come from the State of New York, and I would suppose that it would be almost prohibitive for you to buy television time; to put all your money in television. You wouldn't get the advantage of it because only a fragment of the coverage would come to your particular district.

Mr. MURPHY. \$4,000 for 20 seconds of prime time.

**Senator PASTORE.** There you are. So you would want the leeway to go some other way, and if you had an overall ceiling you could spend your money the way you thought it would be best to you. That is the reason why we provided an overall ceiling in S. 372. I think once you get into the overall ceiling you have to get away from this fragmented limitation, and that is the only reason why we did it. Because if you kept the media limitation in there as well that would be too much money, you see. Especially in a district with only part of the service area of a television station.

I would hope you would give that serious thought, Congressman because I would like your views on it inasmuch as you come from New York. Four thousand for how many seconds?

**Mr. MURPHY.** Twenty seconds of prime time, one channel.

**Senator PASTORE.** Well, \$50,000 wouldn't go very far in your case would it?

**Mr. MURPHY.** Would make no impact. You would have to go to at least \$300,000 in order to have a market impact. That is what the marketing people tell us.

**Senator PASTORE.** It would be better for you to spend your money otherwise, and that is the reason we did that.

**Mr. MURPHY.** But I did introduce legislation in the last 8 years for a certain amount of free time to be afforded candidates, but the networks don't look on that too favorably.

**Senator PASTORE.** Well, that is another question.

**Mr. MURPHY.** I would suggest an amendment to the present law concerning spending by a candidate and his immediate family on his behalf. As you know, the present limitation applies to the candidate, his spouse and any child, parent, grandparent, brother, or sister of the candidate. And I think we should include uncles, aunts, nieces and nephews, third degree of kindred.

My reason for that is based on my recent campaign experience. My opponent early in the campaign reached the \$25,000 limit set forth in the money contributed by family members under the 1971 law. He then went to aunts, uncles, and what have you for additional funds. For example, his mother's brother contributed \$6,000 to his campaign kitty. In my judgment this surely violates the spirit of the law which meant to limit family expenditures and was a thinly disguised effort to permit my opponent to exceed the family contribution limit.

Another peculiar series of events in my opponent's campaign financing leads me to believe we need tighter enforcement of the 1971 law. As of September 10, 1972, he listed \$22,875 in contributions from his family. That total was subsequently amended to \$18,000 when he filed a correction to the initial report, and there was no explanation accounting for the \$4,875 discrepancy.

A report filed 1 week before the election—which was 10 days late—included two items totaling \$25,000 in addition to that \$18,000, both allegedly from nonfamily sources: \$19,943 was identified as a short-term loan from the St. George branch of the Chase Manhattan Bank, and the aforementioned \$6,000 from Uncle Peter. All of my attempts to determine who signed for or guaranteed the Chase loan were fruitless, and it stretches credulity that a friend picked up the note.

What is to prevent prior to election a series of personal notes from being added to the \$25,000, as in this instance it puts it up over \$45,000,

plus another \$5,000 from an uncle, and we are clearly doubling the intent of the Congress in the 1971 act.

Senator PASTORE. Well, rather than get into aunts and uncles and cousins, don't you think we would be better off if we limited it to the amount any person can contribute?

Mr. MURPHY. Senator, I think Senator Cannon brought up the fact that if other sources give substantial campaign contributions the fact that publicly acknowledging who gave those funds is a mitigating factor on the size of that contribution. In my experience—I haven't gotten large contributions so I can't say that I would limit—but my own experience, I just question that.

Senator PASTORE. Well, it raises a very delicate subject. You take a man who has a large family. They would like to see him run for public office and win. You are really telling them they can't make a contribution. And I wonder how we impinge upon the freedom of a person to be generous. When you have a ceiling I think it becomes less and less important how much you could give, because the candidate can only spend up to his limit. The trouble today is with these large contributions. The sky is still the limit outside of the categories that we have limited. This, in my humble opinion, leads to the exorbitant giving. Whereas if you can confine the spending limit I think you can be a little bit more liberal as to who gives it, because one counterbalances the other.

Today the very crux of your enforcement is the disclosure. The important part of the bill that we passed in 1971. Credit for that doesn't go to this committee as much as it does to the Rules Committee under the chairmanship of Senator Cannon. As has been pointed out here, it is disclosure that really counts today. Even if you spend two and a half million dollars, we know who gave it. The only trouble with that is while that is a salutary situation the fact still remains it is not complete and there ought to be an overall ceiling. I think in the long run that if you are generous enough with an overall ceiling you really don't get in these scandalous situations where millions and millions and millions of dollars are spent.

That is the reason why I have been very much interested in an overall ceiling. And I repeat again, I think the fact that an uncle, or aunt, or second cousin makes a contribution toward a candidate's campaign become less important once that candidate is confined to an overall amount that he can spend; and provided you name the persons who have given the money.

Mr. MURPHY. And a time element of reporting those funds. In other words, any \$5,000 contribution or over had to be reported by telegram in that last 10 days. Now what happened to many, many contributions, because they simply weren't reported until the postelection report was filed. That is an area I will get into in a moment, which gets to the point you bring up.

There is another section of present law which needs to be amended in order to prevent evasion of the spirit of the 1971 act. I realize that the section I am referring to also lies within the jurisdiction of the Rules and Administration Committees, but if the subcommittee will bear with me I would like to take this opportunity to briefly mention it because in the final analysis this gimmick was used and could be used to avoid the spending limitations of the Federal election laws.

The law requires committees receiving or spending \$1,000 per year to register with the appropriate supervisory officer. Committees which receive or spend less than that are not required to register. In 1972 some candidates used this loophole in the law to hide spending on their behalf. They simply created committees which received and spent less than \$1,000. While technically legal, this sort of shabby practice is clearly an attempt to evade the law. I propose an amendment that will require all committees which receive or spend any amount on behalf of candidates for Federal office to register with and report to the appropriate supervisory officer.

The 1971 law requires each candidate for the House of Representatives to list with the Clerk of the House the names of all committees and groups who contribute or expect to contribute more than \$1,000 toward his or her campaign. Yet my opponent last November had voluminous newspaper advertisements under the sponsorship of eight groups, only one of which was listed with the House Clerk. The House Clerk said he would prosecute or bring to light no issue until after the election. My opponent told the press that the one committee that had filed was the only one which spent more than \$1,000. My research indicates the other seven spent just under the \$1,000 limit. Technically this could amount to \$7,000. And if a candidate had the money available, this ploy could be used to pump even more substantial amounts into a campaign without reporting.

A primary motivating purpose of the 1971 act was to shed light on campaign spending practices. To the degree that candidates cleverly evade the law by the use of such phantom committees they diminish the purpose of the act, and I am convinced we can and must preclude this kind of evasion.

In summation, Mr. Chairman, the Federal election law of 1971 was designed to obviate the reprehensible act of anyone seeking to buy a Federal election by selecting a favorable district suitable to the candidate, then having him move in and spend unlimited moneys to advance his candidacy.

And yet I faced just that, and not just this past campaign, but in other campaigns. In this past year a young man moved to my district only months before he began an elaborate and expensive campaign which officially was reported to have cost almost \$70,000 as of the middle of October. Over \$30,000 was spent on advertising in just one Staten Island newspaper. Billboard and other media spending, in fact all of his campaign activities, can only be described as extravagant. In the final filing which covered the period of November 1 through December 15 he reported spending \$50,000 for communications media expenditures for the total campaign by his campaign committee. However, during this period the committee reported spending over \$228,000 in the newspapers in which my opponent centered his advertising. In reality he had full page ads which were paid for by committees which were created on a daily basis, these committees each spending under \$1,000 each, paid for in the final days of all of the advertising for my opponent. I learned from the House Clerk today that just one committee report of my opponent's expenditures totaled \$104,000.

And I think we can see from this type of spending that the 1971 act does need some of the loopholes closed, and I have language



prepared which I will submit to the committee to close the loopholes which I mentioned.

Just in passing, this is a legal suit that I had attorneys prepare to be filed in the supreme court of my State to prohibit spending during that final week because my opponent had already exceeded all of the guidelines of the 1971 Election Act. But it was problematic whether this suit or any suit or the mechanism of a clerk of the house putting any type of damper because of the practice I have just outlined in the late filings, the stopping of a campaign practice such as that, and I think that we have to do something to close those loopholes.

Senator PASTORE. Thank you very much, Congressman. But you do have one consolation—you won, and he lost.

Mr. MURPHY. That's why I didn't file the suit. Those lawyers cost money, Senator Pastore. So we just held it in abeyance.

Senator HART. Count your blessings.

Any questions?

Senator HART. Well, the subsidy bill doesn't extend to engaging counsel. But what is your reaction to the idea of attempting at least as an alternative to private funding under improved limitations and disclosure we have a publicly funded political campaign for Congress?

Mr. MURPHY. Senator, I listened with great interest to your colloquy with Mr. Gardner, and in my experience to publicly fund all of the candidates—and I had a welfare candidate almost as a primary opponent in this last campaign, and it was quite interesting because one of our—each State is different. One of our requirements, of course, is just to print petitions which cost about \$300, then to circulate those petitions, then to have them collected and file them with the board of elections. Really opening a storefront to advertise your campaign costs a substantial amount of money. We might be inviting so many non-serious candidates into the race and funding them that it could pose many problems.

We had not in the Federal election, but in the mayoralty of New York election 4 years ago we had gentlemen enter the election solely for the purpose of writing books afterward. A mayoralty candidate wrote a very successful book, Norman Mailer. And we had James Reslon run for the city council solely for the purpose of writing a book. And we might be inviting people in on that basis to politics and funding their—call it starter's fee.

Senator HART. The desirability of enabling serious candidates to avoid the suspicion or to protect the public from the suspicion that results from serious candidates funding themselves from private sources is a strong one. We all, I think, share that desire, to enable serious candidates to seek a seat in the Congress without reliance on private contributions. Once you undertake that you do have a very difficult problem, a point that you made, Congressman, Mr. Chairman, and others have made. How do you avoid all the idiots in the neighborhood jumping on, and how many authors will use it as a device to write a book. That is the reason that I suggest it be an add-on to the existing law and that there be a potential penalty that is substantial and that would deter the nonserious candidate. I would hope that as the discussion goes on we will be able to understand more clearly not only the desirability of the objective, but some resolution of some of the kinks—constitutional issues, sure, complexity of administration,

sure. But similar objections were voiced to the 1971 act. Yet with the chairman's persistence it was passed and its adoption, even with all of the defects that we can now point out, was progress. And I think that we have it within our means to develop a prudent means of providing a publicly financed campaign if that is what a candidate wants.

Mr. MURPHY. Senator, we have a mechanical problem that shows up in New York State every general election where the number of parties exceed the ability of the mechanical voting machine to list these parties and still have a lever left to pull. And that is just parties. Now we run into a tremendous primary problem. We would almost have to revert back to paper ballots, if we had that large a field where there are 11 columns and were to run that machine with not sufficient to service the number of candidates. Even the mechanics as well as—

Senator HART. Well, I would hope, though, that we would not invite or provide the means for that kind of blanket ballot. If, as I think it is, you do have a fairly effective screening device; namely, the deposit and the forfeiture of the deposit if you run poorly, I would think that that might avoid some of these hazards and at the same time not shut out the poor man if he is unwilling or unable to raise the deposit because there is still the opportunity for him to run under existing law to the extent that he has that kind of—

Senator PASTORE. Yes, but, Senator Hart, don't you penalize a fellow who is seriously trying to get the votes? What you are saying is if you don't win, or don't get a certain number of votes, you should be penalized by having to pay. I question whether or not that would be constitutional.

Senator HART. I guess what I am saying is if he gets less than 10 percent of the vote he shouldn't ask the public to finance it.

Senator PASTORE. But he doesn't know when he starts out. I have met a lot of people who failed miserably, but they thought they could win. That happens all the time, and who is going to decide whether he is a serious candidate or not a serious candidate. What you are saying is this—whether you are serious or not, the mere fact that you tried and you didn't do it, you've got to be penalized by paying back 20 percent of what we put out for you. But if you won, you get the 20 percent as a prize. I don't think that is fair. The forfeiture disturbs me no end. That is the reason why I asked you how would you work this out. Now the ideal is wonderful, provided you can perfect the procedures. But as it is right now it is rather imperfect. I don't know how you are going to discourage people from running who are not serious. If you impose a penalty on them I think that is unfair.

Now I had two young boys run against me the last time out, and I had a serious candidate as an opponent. He was so serious he got 31 percent of the vote. And the others fell far below the 5 percent. Well, I think in their own minds—they were college students—I think they were serious enough. Now I don't see why, if they were supported by public funds, they should be penalized by having to pay back money that they just don't have. I mean that raises a serious question in my mind.

Yet on the other hand. I can agree with Mr. Murphy, who says that if you make it too liberal you actually encourage a lot of non-serious candidates. But, of course, you can never prove whether they are serious or not. I can imagine in a campaign supported by public funds

you would end up with 50 people in my State running for the office of the Senate. Then the next question is how do you cut it down. You have to get serious candidates. How do you get serious candidates? Well, you prove your seriousness by being able to get a certain number of votes. Yet if you don't get that number of votes, you have to pay back 20 percent of what we have put up for you, and it is a penalty. It is a penalty, and I am afraid it wouldn't stand up constitutionally. Maybe your staff has researched that, but I would hope you would give that serious thought.

This idea appeals to me especially with request to Presidential candidates. You know, the amendment I sponsored where \$1 is deducted from the amount you owe Internal Revenue and that goes into a Presidential election campaign fund. In that case, if you accept public money you could only spend \$20 million. That is your limit, and you can't raise any money beyond that. Once you accept public funds, and there isn't enough money in the fund, you can supplement it with private funds. But just making up the difference. In other words, if you only receive \$15 million from the fund, and the limit was \$20 million, you could raise another 5. But you couldn't raise, let's say, \$1,000 over the \$20 million.

Now I advanced that, and I can see that. But that applies only when you are a legitimate candidate. Up to that time it doesn't help you at all in the primary. You have to have a certain number of votes in order to qualify. I can see it on that level.

But let's say on the congressional level, I can imagine in your district if the Federal Government supported each one of the candidates in a campaign you could end up with maybe 200 candidates, maybe more. Some of them are in there just for the thrill of getting their names in the newspaper.

Mr. MURPHY. We have that today.

Senator PASTORE. Yes; but you have to pay for it. You have to pay for it. Today you have to go out and get the signatures, and go out and get the money. And who is going to give money to a fellow who is just going in for the thrill of it? He is going to find it pretty tough. But you do have certain candidates on the mayoral level, as you have pointed out—Mr. Mailer wasn't looking for money, just to publish a book.

Mr. MURPHY. Four percent of the vote, which is an indication.

Senator PASTORE. But he was more or less a national figure. I understand Mr. Breslin did the same thing. But he was already a national figure.

Any further questions?

Thank you very much, Congressman.

(The statement follows:)

**STATEMENT OF HON. JOHN M. MURPHY, U.S. REPRESENTATIVE FROM NEW YORK**

Mr. Chairman, members of the subcommittee, it is a privilege to appear before you and to have this opportunity to comment on your proposed bill, Mr. Chairman, and to offer a few suggestions for your consideration in that regard.

Let me say at the beginning that great credit is due to you, Senator Pastore, and this subcommittee for passage of the Federal Election Campaign Act of 1971. As an initial effort to rectify the porous Corrupt Practices Act and, in particular, to attempt to bring some sanity to campaign spending, I for one certainly feel that the 1971 act was one of the major accomplishments of the last Congress.

As we all know, however, despite the ceiling which the 1971 act placed on media advertising expenditures, the 1972 elections were the most expensive on record. It has been estimated that around \$400 million was spent at all levels in election campaigns last year. The President is reported to have spent in the neighborhood of \$50 million on his successful general election campaign for reelection. His opponent, Senator McGovern, probably spent in the area of \$30 million in a losing effort. These are staggering sums and loom especially large when stacked against the estimated total of \$300,000 spent by the Republican and Democratic candidates for President in 1872.

True, we are a richer Nation today than 100 years ago.

True, the cost of everything is higher; but, I do not consider it acceptable that the cost of a Presidential election should have risen 270-fold in that span of time.

Taking it down to the congressional level, Mr. Chairman, you have raised what seem to me legitimate doubts about the expenditure of millions of dollars for a seat in the Senate. I think it is right to be exercised at this state of affairs. There has never been, to my knowledge, a House election which cost a million dollars or more, but only a few years ago a special election was reported to have cost \$500,000, an incredible sum to spend it seems to me.

What you are suggesting in S. 872 is an overall expenditure limitation for federal office based on 25 $\frac{1}{2}$  times the eligible voting age population for the geographical area represented. In the final analysis the exact cents figure, while important, is of lesser significance than the enactment of an overall expenditure ceiling.

I agree with you that there ought to be such a ceiling.

Our experience with the 1971 act suggests that limitations on one aspect of spending has about as much reduction effect as squeezing a balloon—which simply displaces air from one part of the balloon to another—provided we don't burst it. Similarly, with the imposition of campaign expenditure ceilings in one area of spending—money not spent in that area is displaced to some other area. Thus, campaign spending—evidence the 1972 elections—was not less, but only differently distributed than before. Indeed, and sad to note, spending increased in 1972 after the imposition of the media limitation.

Clearly, therefore, if we are to effectively halt the campaign spending spiral, or at least to contain it within reasonable limits—say, to cost of living increase—we must move in the direction you suggest.

At the same time, Mr. Chairman, it is my feeling that it would be a mistake to remove the specific media spending limitations in the 1971 act. Those I think we should retain. Otherwise, we run the risk of a pure media campaign and I think that is very dangerous indeed. Let's face it, some are better at the media game than others. Some come across well on radio and TV, others do not. It has often been speculated that Abe Lincoln would not have stood a chance of election in these times of radio and TV campaigning because he was not an "image" type of candidate. If true, our country would have lost one of its great presidents.

Do we want to create a situation in which good men and women lose out because they cannot come across on radio and TV? Madison Avenue techniques in political campaigning have become bad enough without encouraging them. I was delighted with the limitations we voted in 1971 on radio and TV and I would urge you to retain them intact at what amounts to 6 $\frac{1}{2}$  times the eligible voting age population, or two-thirds of \$50,000 multiplied by the cost-of-living factor in the law.

I would hope that this subcommittee would agree with me that candidates ought to have to do more to get elected than put together a slick media campaign. I think the people deserve a better brand of campaigning than that. It has been said that we should never underestimate the intelligence of the voter nor overestimate the information available. That may be true, and it may be that the voter would reject a total media candidate. But, we in Congress have a responsibility to write intelligent law and to act in the best interests of the people to the degree that we in our collective wisdom can do so. It seems to me that we should not encourage a total media campaign because we all know how slick and false that kind of campaign can be. I am convinced that by retaining a limitation on media spending, within an overall limitation on campaign spending, we will act wisely and we will promote the best interests of the people.

Mr. Chairman, I would suggest an amendment to the present law concerning spending by a candidate and his immediate family on his behalf. As you know, the present limitation applies to the candidate, his spouse and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

It is my feeling that we ought to extend that limitation further into the family tree. At the very least, for example, we ought to extend it to a candidate's spouse, and any child, parent, grandparent, brother, sister, uncle, aunt, niece, or nephew of the candidate, and the spouses of such persons.

If it lies within the purview of your subcommittee to consider this matter, I urge you to give it serious consideration and to report out a further limitation.

My reason for this amendment is based on my recent campaign experience. My opponent early in the campaign reached the \$25,000 limit set forth for moneys contributed by family members under the 1971 law. He then went to aunts, uncles, and what have you for additional funds. For example, his mother's brother contributed \$5,000 to his campaign kitty. In my judgment this surely violates the spirit of the law which meant to limit family expenditures and was a thinly disguised effort to permit my opponent to exceed the family contribution limit.

Another peculiar series of events in my opponent's campaign financing leads me to believe we need tighter enforcement of the 1971 law. As of September 10, 1972, he listed \$22,575 in contributions from his family. That total was subsequently amended to \$18,000 when he filed a correction to the initial report, and there was no explanation or accounting for the \$4,575 discrepancy. One wonders if he gave it back—or re-routed a harder-to-identify portion to make room for more direct family money.

A report filed by my opponent one week before the election—which was 10 days late—included two items totaling \$25,948, both allegedly from non-family sources. \$19,948 was identified as a short-term loan from the St. George branch of the Chase Manhattan Bank—and the aforementioned \$6,000 from uncle Peter. All of my attempts to determine who signed for or guaranteed the Chase loan were fruitless and it stretches credulity that a "friend" picked up the note.

Mr. Chairman, there is another section of present law which needs to be amended in order to prevent evasion of the spirit of the 1971 act. I realize that the section I am referring to also lies within the jurisdiction of the Rules and Administration Committee but if the subcommittee will bear with me I would like to take this opportunity to briefly mention it because in the final analysis this gimmick was used and could be used to avoid the spending limitations of the Federal election laws.

The law requires committees receiving or spending \$1,000 per year to register with the appropriate supervisory officer. Committees which receive or spend less than that are not required to register. In 1972 some candidates used this loophole in the law to hide spending on their behalf. They simply created committees which received and spent less than \$1,000. While technically legal, this sort of shabby practice is clearly an attempt to evade the law. I propose an amendment that will require all committees which receive or spend any amount on behalf of candidates for Federal office to register with and report to the appropriate supervisory officer.

The 1971 law, as you know, requires each candidate for the House of Representatives to list with the Clerk of the House the names of all committees and groups who contribute or expect to contribute more than \$1,000 toward his or her campaign. Yet, my opponent last November had voluminous newspaper advertisements under the sponsorship of eight groups only one of which was listed with the House Clerk. My opponent unabashedly told the press that the one committee that had filed was "the only one which . . . spent more than \$1,000." My research indicates the other seven committees spent just under the \$1,000 limit. Theoretically, this could amount to \$6,965. And if a candidate had the money available, this ploy could be used to pump even more substantial amounts into a campaign.

A primary motivating purpose of the 1971 act was to shed light on campaign spending practices. To the degree that candidates cleverly evade the law by the use of such "phantom" committees, they diminish the purpose of the act, and I am convinced we can and must preclude this kind of evasion.

There are some of the areas in which I feel my opponent played fast and loose with the intent of Congress. While my amendments are designed to close some glaring loopholes, I feel the approach you have taken is a sound one. The expenditures allowed under the 1971 law are still high, still prohibitive to some people.

In summation, Mr. Chairman, the Federal Election Law of 1971 was designed to obviate the reprehensible act of anyone seeking to buy a Federal election by

selecting a favorable district suitable to the candidate then having him move in and spend unlimited moneys to advance his candidacy.

Yet my opponent obviously did just that. He moved to Staten Island only months before he began an elaborate and expensive campaign which officially was reported to have cost almost \$17,000 as of the middle of October. Over \$30,000 was spent on advertising in just one Staten Island newspaper. Billboard and other media spending in fact, all of his campaign activities, can only be described as extravagant.

I have for the committee's consideration a court action which I had prepared and intended to bring against my opponent. It contains more detailed information on the matters I have only briefly touched on.

It is not surprising that some loopholes were found during the last election and that the spending limits may have to be changed based on that experience. I urge this subcommittee to help close the loopholes and to change the spending limits if necessary so that future elections cannot be bought by monied peripatetic would-be officer holders.

Senator PASTORE. We have Professor Mickelson. I am very sorry we held you up. But I think it was rather interesting, I think you will admit.

**STATEMENT OF PROF. SIG MICKELSON, NORTHWESTERN UNIVERSITY, AND DIRECTOR OF THE ASPEN INSTITUTE PROJECT ON POLITICS AND THE MEDIA**

Mr. MICKELSON. Quite all right, sir.

Mr. Chairman and members of the committee, we are obviously here discussing a matter of vital concern. I think in view of the fact that quite a number of issues I can address myself to directly were mentioned here that I would like, with your permission, to read at least a portion of my prepared remarks.

Senator PASTORE. Yes; we will put the entire statement in the record at this point, and you may raise any points you want even based upon what you have heard here today.

Mr. MICKELSON. Very well, thank you, sir.

During the past several months I have spent a large share of my time in analyzing the relationships between the American communications media and the electoral process. This study has been supported by the Aspen Program on Communications and Society which is in turn supported by a number of private funding agencies. I should add that opinions expressed here this morning are entirely my own and may or may not reflect attitudes held by members or supporters of the Aspen group.

Now there has been much talk here this morning of money. The question of money is obviously important, but it should be analyzed not in terms of how much is spent but how it was spent. What kind of results did it achieve? Were any viable candidates unable to run? Were they defeated because of the lack of adequate funds?

Some persons express shock that \$400 million may have been spent during the 1972 campaign. They disregard the fact that \$400 million represents total expenditures for all contests at all levels of government and that the \$400 million breaks down into something less than \$3 per person of voting age for all candidates at all levels.

Expenses incurred in the Presidential campaign of 1972 will probably total, when the final figures are made available, something less than \$100 million. This is only about 70 cents per eligible voter. The Pastore amendment would allow something in excess of \$1 per eligible

vote depending upon how many candidates there were in the primaries. Media expenditures will run substantially under the allowable limit of \$28.5 million for both parties combined, also a rather insignificant sum when compared with the importance of the office. Actual media expenditures for the two candidates, Democratic and Republican, will run about \$12 million for the campaign, including production costs which total up about 20 percent of the total media cost. That is radio and television, about 20 percent of the total.

Rather than become concerned with total costs or specific campaign methods, it seems much more in the public interest to aim any modification of existing legislation toward goals which will make our electoral system work most efficiently in selecting the best possible candidates for office.

There, in my mind, should be five such goals: (1) provide equal opportunity or relatively equal opportunity for all eligible and qualified candidates to run for public office with none excluded solely for lack of financial resources; (2) seek to achieve a reasonable balance of exposure between the incumbent and the challenger; (3) disclose large campaign contributions so the public can assess influence which might have been bought by campaign contributors; (4) achieve the avoidance of excesses, deception, distortion, fraud and exaggeration in campaign tactics whether in print, on the air, or in direct mail; (5) encourage the use of all reasonable devices to increase the flow of information to the voter regarding both issues and candidates and to build his interest in exercising his franchise.

The Federal Election Campaign Act of 1971 has made a useful start toward reaching some of these goals, but there are obvious weaknesses in the act, some of which were revealed in its application to the 1972 campaign.

Additionally, there are significant aspects of our campaign process as it relates to the media which were not touched by the act and which should be considered in connection with future legislation.

In revising or amending the Federal Election Campaign Act of 1971 consideration should be given to:

One, closing the loophole which enabled campaign organizations to use unlimited funds for direct mail and miscellaneous expenses including salaries, rent, travel, and fees while operating under the severe restrictions in the case of broadcasting, print and certain types of telephonic messages.

Senator PASTORE. How would you do that?

Mr. MICKELSON. I would suggest that that can be done by overall limitation such as is proposed in your amendment, sir.

Secondly, strengthening enforcement powers so that there would be some assurance that provisions of the act would be adhered to and that violations would not go unpunished.

Three, removing discrimination against broadcasters as required in the 6 cents per voter overall expenditure limitation and in the requirement that broadcasters charge rates no higher than the lowest rate charged to any advertiser.

Four, eliminating section 315 of the Federal Communications Act as it applies to Presidential and Vice Presidential contests and, in effect, challenging the broadcast networks to make good their substantial offers of free time for appearances by candidates and coverage of the campaign.

Five, strengthening the disclosure features of the act so that the public may be fully informed on political contributions, who made them, and what rewards might be granted on the basis of them.

In addition to these specific suggestions concerning the Federal Election Campaign Act of 1971, there are a number of other recommendations for improving the electoral system, particularly as it relates to the media, which should be considered in connection with any future legislation on the subject:

Firstly, the possible use of some form of subsidy to create a floor under the resources available to all legitimate political candidates should be considered. Perhaps this can be achieved through the income tax checkoff provision which goes into effect this year, or it might require direct appropriations for campaign programs.

Secondly, the public broadcasting stations of the United States should be encouraged to play a greater role in the electoral process and given resources to do so by Federal Government appropriation or by a grant of permission to sell time for political broadcasts.

Thirdly, the "fairness" clause in section 315 should be carefully examined in the light of evidence that some broadcasters, faced with its vague wording and its inconsistent enforcement, have backed off from furnishing as full campaign coverage as they otherwise might have given.

Fourthly, the relationship between the "fairness" doctrine, the reasonable access" provision in the FECA, and section 312's provision for license revocation should also be considered since the combination of these three items may in some cases restrict coverage by forcing the broadcaster into a frustrating dilemma. And I should add this becomes even more frustrating when the certification provisions of the Federal Election Campaign Act are added in.

Nothing in any future legislation should in any way restrict the opportunity for significant candidates to carry their cases to the voters. Unnecessarily restrictive ceilings on campaign expenditures or contributions and prohibitions against various types of campaign materials—including political advertising—might serve to reduce voter education and thus diminish interest in the electoral process and knowledge about the issues. As a matter of principle it should be assumed that the use of incentives is preferable to the imposing of restrictions. We must not take any steps which would lower the voter turnout below the 55 percent that went to the polls in 1972. On the other hand, we should certainly make use of any devices and any campaign tactics which would increase the voter turnout and raise the level of political sophistication without in any way damaging the electoral process.

It is evident that the amendments to the Federal Election Campaign Act of 1971 proposed by Senator Pastore will accomplish some of the ends described above. Imposition of the 25-cent overall limitation on campaign expenditures will remove the most important element of discrimination against broadcasters and bring direct mail and other potential major outlets for campaign spending within the overall controls. An examination of expenditures during the 1972 campaign suggests that the 25-cent limitation will still allow the candidate adequate funds effectively to campaign for office.



Elimination of section 315 as it applies to Presidential and Vice-Presidential candidates will enable networks and some stations to devote much more time and effort to campaign coverage. Broadcast spokesmen must be taken at their word that they will devote more time and there is no evidence to suggest that they would not make good on their promises.

Reaction to the Federal Election Campaign Act of 1971 generally seems favorable. There were irritations caused by the application of the act as there always will be when new controls are imposed. The reporting and certification procedures imposed onerous burdens on both candidates and media executives. Centralization of reporting and controls and inhibited regional concentration and local placing of advertising and accounting of the costs of that. There was an adverse effect on some small stations as a combination result of the reasonable access process certification and the lowest rate provision. And it is obvious also that enforcement will become more efficient as familiarity with the provisions of the act increases and more loopholes are discovered.

In addition, serious first amendment questions resulted from enforcement of the act, particularly with regard to its certification provisions, but the overall reaction is that the FECA has made an impressive start.

The amendments suggested by Senator Pastore should constitute an additional forward step. But by no means should the amendments be regarded as the final effort toward making our electoral system fair, equitable, and effective in electing the highest quality candidates for office while, at the same time, raising the voter to new high levels of political sophistication and interest in the electoral process.

I have one further suggestion to make. We should seek to learn about the relationships of politics and the media in the other countries of the world which conduct open elections. The Aspen Program on Communications and Society has scheduled a meeting in the United Kingdom in late March with representatives from the United Kingdom, Denmark, Holland, Germany, France, Italy, and Japan to exchange ideas and compare methods. While there are differences in the electoral process as practiced in the parliamentary democracies as contrasted with our republican system, there are similar problems in campaign financing, maintenance of fairness and balance, protecting the rights of incumbent and challenger alike, and in creating opportunities for the impoverished as well as the wealthy to run for public office. I hope that it will be possible to bring back from the meeting further suggestions which, with proper modification, might be applicable to the U.S. system.

I am grateful for the opportunity, Senator Pastore.

Senator PASTORE. We are very grateful to you for your statement. Any questions?

Senator HART. Professor, you suggest as one of the five goals, providing equal opportunity or relatively equal opportunity for candidates to run with none excluded solely for the lack of financial resources. You also suggest that improvements would include the possible use of some form of subsidy to all legitimate candidates, perhaps through a tax checkoff, or it might require direct appropriations for

campaign programs. And you have heard the exchange this morning, the difficulty on the one hand of avoiding throwing it open to—I was going to say idiots, but the public assumes we are all idiots—but even more idiots is the way I will put it—avoid that and at the same time be fair. Do you have any suggestions?

Mr. MICKELSON. Well, yes, I have some suggestions. In the first place, I use the word “relatively” because it is obviously totally impossible to put everybody on an absolutely equal basis. Secondly, I have some serious doubts as to whether this system would work in primary campaigns because at that point it would simply open up the way for too many people with too many varied motivations to declare themselves candidates for office and get their fingers into the public cookie jar.

But it seems to me that once a person has become an officially declared candidate and is on the final ballot then our best procedure would be to work on a combination of the creation of a floor plus giving him the opportunity to make use of his own resources in money raising whatever those means are; so that he has a combination of a floor which will provide some basis of equality, at least a springboard at the same level, but from that point on it is every man for himself.

Senator HART. Subject to disclosure and perhaps limitations on the amount from any one individual?

Mr. MICKELSON. Absolutely. Disclosure I think is much more important than the question of limitation, because if the disclosure provision is clear and understandable and if it is strictly enforced then at least the public would have the opportunity to make its own assessment of the influences which might be the result of any what appears to be excessive donations.

Senator PASTORE. Thank you very much.

We will meet again at 10 o'clock tomorrow morning.

(Whereupon, at 12:35 p.m., the subcommittee recessed, to reconvene at 10 a.m. the following day.)

## FEDERAL ELECTION CAMPAIGN ACT OF 1973

THURSDAY, MARCH 8, 1973

U.S. SENATE,  
COMMITTEE ON COMMERCE,  
COMMUNICATIONS SUBCOMMITTEE,  
*Washington, D.C.*

The subcommittee met at 10:10 a.m., in room 5110, New Senate Office Building, Hon. John O. Pastore (chairman of the subcommittee) presiding.

Senator PASTORE. We will continue our hearings this morning on S. 372.

We are honored to have as our first witness the Senator from South Dakota, the Democratic nominee for President in the last election, Senator McGovern.

We are honored to have you with us this morning. You have a written statement, and you may proceed in any way you see fit to do so.

### STATEMENT OF HON. GEORGE S. McGOVERN, U.S. SENATOR FROM SOUTH DAKOTA

Senator McGOVERN. Thank you, Mr. Chairman.

I welcome the opportunity to testify on your proposed legislation, S. 372, to amend the Campaign Communications Reform Act. The issues related to this bill have a great deal to do with whether democracy itself can continue to function in an age of modern communications and big money.

I support wholeheartedly the first part of the bill, which would amend the equal time requirement of section 315 of the Communications Act.

Permanent suspension of that provision with respect to Presidential and Vice-Presidential candidates, coupled with the networks' promise to provide substantial amounts of free time, would assure a much better flow of significant information to the electorate. It would help reduce the massive cost of buying broadcast time. And it would free the broadcasters from an archaic provision of communications law which has not insured fairness at all, but instead has served only to prevent intelligent election programing.

I remain convinced that face-to-face debate is by far the best way for the American people to compare the candidates and their programs, and I consider it a tragedy that section 315 is still used to deny them that opportunity.

I also endorse some form of comprehensive spending limitation to hold down spiraling campaign costs. The present limitation on media

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spending is a step in the right direction. But we must build on the beginning lest we soon reach the point where a candidate's ability to raise a big campaign war chest is more important than his capability to hold office. We are dangerously close to that point now.

At the same time, Mr. Chairman, I have some doubts about the solution provided by the legislation you are presently considering.

It is important to keep in mind that our main goal should be to reduce the political influence of money, not to retard political campaigns.

I do not see the objective of this legislation as limiting the people's exposure to political candidates or vice versa; on the contrary, if they are properly used, new forms of communication can make our system work better.

Yet, in many cases, the 25 cent per voter limitation in the bill as it stands now could sharply restrict the ability of candidates to make their views known.

In Presidential elections that 25-cent figure would work out to a limit of approximately \$32 million. Certainly that is an adequate figure, particularly if the networks come through on their pledge of free time. No Presidential campaign need cost more than that.

In the case of Senate and congressional campaigns, however, the 25-cent limit could have some unhealthy effects growing out of differences among the States. It would have little effect on States with larger populations, but a decidedly restrictive effect on States with fewer people.

Senator PASTORE. If I may interrupt you Senator. You raise a valid point, one I considered at the time this legislation was drafted. But I left it out because neither I nor anyone connected with the committee had any conception of what a fair formula should be until I talked to Senators who might have had experience in these various States where the area is large and the population is small. That situation is exactly the opposite of the situation in my own State.

We are small in area, but we are rather congested insofar as people are concerned. That would not be the case, of course, in your own State.

For that reason we always felt that we had to more or less develop a formula that would not only take into account the number of voters but also the geographical area.

I am asking, now, what do you think would be a fair figure as a minimum?

We did have a floor in the previous act of 1971. That law recognized there are certain States that geographically are large but have small populations. Alaska, for instance; and New Mexico, and Nevada, and your own State of South Dakota.

What would you say would have to be a minimum? If you used the 25 cents in your State, how much would it come to?

Senator MCGOVERN. Well, the 25 cents would give us—

Senator PASTORE. We have the figure right here if you don't have.

Senator MCGOVERN. My guess is we have got about 300,000 eligible voters. So that comes out to \$75,000. Then you would get the \$50,000 media base that you suggest in the bill. So your total with the \$50,000 base plus 25 cents per voter would provide in a Senate race in South Dakota \$125,000.

In my judgment that is entirely inadequate. I don't think you can run a good Senate race in South Dakota for that amount of money. I think it would require three times that much money in a day of modern communications, travel, and the necessity of building a grassroots organization and doing the other things that come with an effective campaign.

I think the Senator that we just elected from our State probably spent close to \$40,000 on his race, and it was not a lavish campaign.

Inflation has hit the campaign trail as well as everything else. The first race I conducted in South Dakota for the Congress cost about \$15,000. But that is no longer possible.

Senator PASTORE. Don't you admit the competitiveness involved in a campaign is being overdone?

When you say \$40,000, that is a lot of money.

Senator MCGOVERN. It is a lot of money, Mr. Chairman, but I would say in a State like ours where you have to get over the entire State you have got a number of television stations then in a small—that is a sparsely populated State like ours. You have 18 or 19 radio stations. You have scores of weekly newspapers and 12 daily newspapers that a candidate who wants to become known would probably have to spend in that range of \$300,000 to \$400,000.

I think while it may be in the interest of an incumbent Senator to try to keep down the spending limitation, having remembered what it was as a challenger running against a well-known incumbent, if I were in that challenger's role I would not think it were fair to him to limit him too severely in what he can spend to become known to the voters.

I am well known in my State now. I don't want to leave the impression that I have an easy race coming up because I do not. But I would think that whoever is my opponent will be the next time would find it necessary to have a rather generous campaign budget to become as well known as I am.

The same thing is true with other challengers. So I think, to be fair to them, we should be careful about not restricting them too much.

Senator BAKER. May I ask a question?

Senator PASTORE. Yes.

Senator BAKER. Senator McGovern, I agree with you that in effect there is a built-in anomaly in the approach that limits campaign expenditure purely on the basis of population; just as your State is classified as one of the less populated States, it is one of the larger States from a geographical standpoint.

Senator Pastore's is a small State that is heavily populated. My own State of Tennessee is someplace in the middle. We have a fairly large State geographically but not among the largest and we have 4 million population, which is someplace in the middle.

From my own experience in 1972 I find that we spent in the aggregate about 80 cents. You mentioned three times the figure that is mentioned here, which would be a close approximation of my campaign expenses.

But one of the points that came home most forcefully to me was distance, space, the size of the State is a terribly expensive thing in a campaign.

For instance, there is no way to campaign in my State without an airplane. There is no way to do it.

Senator McGOVERN. That would be true in my State also.

Senator BAKER. You speak then of a cost, if you are honest about all the costs of operating an airplane, you are talking about \$50,000 to \$75,000 or \$100,000 for a year if you do it so you don't get yourself killed.

You would include telephone costs and the expense of WAT lines and the paraphernalia of a campaign that are more important in a large area State than they are in a more compact and more populous State.

Do you have a suggestion on how we could build into the formula of this legislation some accommodation for geographical size as well as population?

Senator McGOVERN. Well, what I am proposing in the statement is that the base be raised; that is, the base for all campaign activity, including media expenses, be raised to approximately \$400,000 in a statewide race, and then the 25-cent-per-voter limitation be added on top of that.

As I understand it, the bill now has a \$50,000 base in it. I would just raise that.

Senator PASTORE. If I could interrupt—that wouldn't work in my State. It would bring it up to well over half a million dollars for each candidate, and I think probably about two-thirds of that would be actually wasted.

I was wondering if somehow we cannot move this up by making certain provisions for the geographical area that may be involved.

For instance, in the State of Rhode Island, with the formula I have suggested, the 25 cents per voter, would come to about \$168,000. I think in my State you could run a very effective campaign with that amount of money, provided everybody was under the same limitation.

I don't care how well known you might be. When you begin to spend \$168,000 over a period of 6 to 8 weeks in Rhode Island, you are spending a lot of money, and you are getting a lot of exposure.

Of course, the point is in my State you can drive in and drive out within an hour and a quarter. I understand that. But there are other States where, like the Senator has said, you need an airplane, like in South Dakota, if you really want to get around.

They are beginning to use helicopters in my State now. It is a lot more convenient to do this.

I was wondering if we couldn't take geographical area into account. What do you think of that suggestion?

Senator McGOVERN. Well, I think that is a possibility Mr. Chairman.

Senator PASTORE. You see, I wouldn't want to raise it too much, for instance, in California. California comes to \$3 million.

Senator McGOVERN. Yes, I made note in my prepared statement that you probably would have in excess of \$3 million in both New York and California, but I don't think anyone would challenge that as an adequate figure.

Senator PASTORE. That is what I am afraid of. I wouldn't want to raise those. I wouldn't want to raise my own State.

Senator McGOVERN. You see, you really wouldn't touch those large States with the proposal I have made here of the \$400,000 base. Maybe that is too high. I don't expect to spend that kind of money. But what.

I wanted to establish here was the principle that you need to raise that base to cover the whole range of expenses, not just media expenses, but the cost of maintaining headquarters in probably 10 or 12 key towns and cities across a big State.

I suppose in Rhode Island you could have one headquarters in Providence and that takes care of it. But in my State you have got to have 12 or 15 headquarters or people think they are being neglected. They think you have forgotten about Rapid City or Aberdeen or Sioux Falls.

You have got to have those headquarters staffed. There have to be phones there. There have to be facilities. You have got to have a good serviceable aircraft to move you around day or night.

The necessity of relying on the mails is very important. I don't think you can run a campaign effectively in a State like mine any more without considerable use of the mails.

There has to be advertising in those little weekly newspapers. That is all some people see in many parts of my State, that weekly newspaper that comes every Thursday or every Wednesday. It is their communication with the campaign.

So maybe the \$50,000 figure is too big.

I am not going to press on that other than to say that I think if you lifted that base to some more reasonable level beyond simply the \$50,000 you have in for media ---

Senator PASTORE. Would you go so far as to say that possibly we ought to rest on the disclosure law for purposes of keeping people honest, and let the 1971 law remain as it is without putting on an overall ceiling? Or would you recommend an overall ceiling?

Senator MCGOVERN. No. I think an overall ceiling is desirable.

Senator PASTORE. I am very happy to hear you say that.

The point is how do you work out this formula in fairness.

Senator MCGOVERN. I haven't been able to think of a formula that would deal with the geographic problem, Mr. Chairman, because I suppose that every State is different. I did just suggest this formula of raising the base so that we don't provide a situation where somebody in a large State finds himself---take the State of Wyoming. My calculations are that under the present bill a Senate race in that State would have to stay within about a \$50,000 limit which is a very tough job in Wyoming.

If I were a challenger out there I wouldn't want to run against Senator Hansen or Senator McGee on a \$50,000 budget. I think it would be hopeless.

Senator CANNON. Under last year's act that was the amount provided in Wyoming for the communication media alone. So if this formula were adopted we would be fixing an amount about equal to certainly not more than half of last year's.

Senator PASTORE. We all concede that exceptions have to be made with relation to geographically large States with small populations.

The one thing that has bothered me is what kind of a formula do you work out if you are going to have an overall ceiling.

The Senator from South Dakota has suggested, of course, a floor. That is one way, and there may be another way of taking into account the mileage that has to be covered.

I think we would have to wrestle with that.

If you, at any point, are struck with an idea I would be very happy to hear from you on the question of the geographical area.

You may proceed.

Senator MCGOVERN. Mr. Chairman, we have discussed some of these matters that I have in the statement, so I will just skip over those.

By way of illustration, I have seen no indication that the 10-cent limitation on media has brought about any drastic reductions in what would have been spent otherwise in rural States, even though media time, too, costs more per voter when the population density is low.

But in the most recent Senate campaign in South Dakota, media and telephone spending accounted for only about 12 to 15 percent of total spending. Candidates for both parties found it necessary to spend six or seven times as much on other expenses.

So in the case of sparsely populated States the overall 25-cent limit would produce a sharp cutback from customary campaign activities to about a third or less of what has been deemed necessary for an effective campaign in recent years. It would curtail campaigns in those States far more than in urban centers.

In the process it would tend to greatly strengthen the inherent advantage of the incumbent, by denying the challenger an opportunity to give his views and qualifications exposure on a par with the news coverage an incumbent receives simply by virtue of holding office.

Then I go into a discussion, Mr. Chairman, of the \$400,000 proposal which we have already touched on.

A solution of this kind would deal adequately with the question of campaign costs. But it would deal only indirectly with another concern which I regard as still more serious—the continuing ability of big contributors to buy favorable attention from public officials.

There have probably been enough revelations about big contributions under questionable circumstances in this last Presidential campaign to convince many voters that you get exactly the kind of government you pay for—if you can afford to invest large sums through campaign treasuries.

I am convinced, moreover, that existing disclosure requirements are not enough to have much effect on either the way funds are raised or the way public officials treat big donors. The policy quo can often escape exposure even if the campaign quid is disclosed. And the entire system works against the best interests of the ordinary voter and taxpayer.

Therefore, I would like to see a flat and enforceable limit of no more than \$3,000 on the amount any one individual can contribute to a political campaign, whether for the White House or the Congress.

We may have left many points unclarified in the Presidential campaign last year, Mr. Chairman, but one thing we did demonstrate is that it is possible to finance even a campaign of that kind almost entirely from small contributions. Roughly 80 percent of our funds were raised from direct mail solicitations, with average contributions of about \$30.

Incidentally, in that connection, Mr. Chairman, my campaign, as you know, for both the nomination and the general election, was stretched out over a period of about 22 months, and just in rough



figures in that period of time we raised and spent about \$25 million, and it is conservative to say that 80 percent of that came in contributions of \$30 or under.

During the primaries the average figure was probably about half of that. Then as we got into the general campaign the average contribution size jumped, but the average for the entire campaign would be somewhere around \$30.

While we don't have the figures broken down that way, I would estimate that a far greater proportion of the total funds from supporters who gave \$3,000 or less.

Based on that experience, there is no longer the slightest question in my mind that both parties could finance their campaigns adequately under a limit of this kind, on nationwide, statewide or district levels. And I am just as sure that we would have a healthier, more responsive, and more democratic government as a result.

The limit must be firm and enforceable so that efforts to raise small contributions will not be passed over lightly because they are cushioned by backdoor romances with bigger money. If we expect the people to depend on their representatives, then it is time we required representatives to depend on the people as well.

It is also relevant in this context to raise the question of public financing of campaign costs. The best method presently available is the \$1 checkoff system initiated in the last session of the Congress.

However, just as our distinguished colleague, Senator Humphrey, predicted, the system has produced disappointing results this year because of the way the Internal Revenue Service separated the checkoff from the main tax form.

The Washington Post recently reported that only 4 percent of the tax returns being processed include the checkoff. If that rate prevails for all taxpayers the system will fall far short of expectations and even further shore of legitimate campaign needs.

Senator Mondale has sponsored legislation, S. 1109, to require that the checkoff be included on the front page of the tax return, and to require that the Internal Revenue Service publicize the advantages, including the fact that using the checkoff adds nothing whatsoever to the individual's tax bill. I have cosponsored that proposal.

In the meantime, I hope all of us can draw public attention to this option in the days remaining before April 15, and I hope the Internal Revenue Service will do what it can on its own motion toward that end.

Senator PASTORE. I hardly think a law is necessary. We made that abundantly clear. That was my amendment. When we discussed it on the floor of the Senate, I made it abundantly clear it was to be on the main form. I would hope that the Internal Revenue would not use subterfuge.

As a matter of fact, we have a letter from a gentleman from Michigan, that I put in the record yesterday. He couldn't even obtain the second form, aside from the fact he was unable to use the main tax form. He couldn't obtain one. He went to the post office. He went to the Internal Revenue, and finally they fished one out. After a lot of trouble.

No one is going to take that kind of trouble in order to file that form. It ought to be made abundantly clear, of course, that \$1 is taken out of the amount you owe. It isn't an additional dollar.

The fact is it has not been publicized. I think the Internal Revent even without being mandated by the Congress, ought to understand that it ought to be on the main form. I would hope that they would do it.

Senator McGOVERN. I agree they should do that, Mr. Chairman. was startled to see the way it was handled this time around. I thought the legislative intent was clear. Certainly a law would make it clear if it is not.

Senator PASTORE. Thank you.

Senator McGOVERN. Let me reiterate, Mr. Chairman, that the issue under consideration by this committee go to the heart of our political process.

Some months ago, I saw a study done under the auspices of the University of Connecticut, which surveyed public confidence in various groups of people. Out of 20 groups, politicians came in 19th behind professors, business leaders, dentists, doctors, judges, and a long list of others. As I recall, used car salesmen were the only ones that were rated below politicians.

I am convinced that money has a great deal to do with the cynicism and distrust toward political leaders.

In that connection, Mr. Chairman, one of the things I noted in the last campaign, no matter how horrendous an incident was revealed, great many people took the attitude that that is the way we operate. that that is just normal.

No matter how questionable or shoddy the practice was, when you tried to arouse some degree of concern about it, many people that talked to said, well, that is the way you all operate; that is the way politics is.

I think that view has become very, very widespread. One of the reasons is they think the whole political process is tainted by big money, and that people with enough money can get anything they want out of those of us in politics.

I think it is an unfair judgment, but I think it is one that is very widely prevalent.

We can rekindle the confidence of the people only if we finally resolve in a truly credible way this whole question of financing campaigns.

That will not be accomplished by spending limits which have the effect of restricting contact between candidates and voters. But it can be done through face-to-face debates between candidates through a flat enforceable limit on individual campaigns and through a system which will enable candidates to finance their campaigns without depending on those who seek to buy personal shares in the public trust.

Senator PASTORE. Thank you very much.

Senator Hart?

Senator HART. I apologize, Mr. Chairman. I was at another hearing. I apologize to my colleague for being late.

I think, as Senator Pastore indicated, objectives are one thing and the formula to achieve them are another. As I understand it, you suggest that there be a floor, a minimum, in order to compensate for the geographically large but thinly populated States.

Senator McGOVERN. That is correct, Senator Hart. I drew attention to the fact that under the present proposal, for example, in Wyoming, a person running for the Senate would be limited to a total budget of \$50,000, and it is pretty difficult to run a race in a State that big geographically on that kind of a budget. I think it is impossible.

Senator HART. Have you ever taken a position which would argue for the adoption of a publicly financed political campaign rather than from private sources?

Senator McGOVERN. Yes, we have. Generally, I would favor that system. I would not want to rule out, though, the possibility of it being supplemented by private contributions, provided there was a flat limit placed on those contributions.

I think it is a privilege in this country to be able to invest in a campaign. A lot of people get a sense of satisfaction out of that, and they should, because it is an important part of our system of government.

I would not want to deny the individual citizen a chance to make a contribution to a candidate who he is interested in.

I think it should be sharply limited. I would rather see a combination of public finance with private contributions strictly limited.

Senator HART. Thank you.

Senator PASTORE. Senator Baker?

Senator BAKER. Mr. Chairman, I won't belabor that issue. Senator Hart and I have long since established our adversary positions with respect to Federal funding of elections.

I would only put this question as I have to other witnesses. You point out that politicians unfortunately range just ahead of used car salesmen in public esteem, according to a recent sampling of public opinion. Do you have any fear that the public esteem for politicians might diminish still further if we passed a statute that provided for the financing of politicians' campaigns from the Federal Treasury?

Senator McGOVERN. I think it would increase public confidence in our political process. I don't think there would be much objection to it. Senator Baker. I know there is anxiety on the part of some Members of Congress that somehow that would be seen as a raid on the Treasury, but if it were explained to people that it protects them against selfish interests that have played too big a role in the financing of campaigns, I think most people would support it.

Senator BAKER. How do you feel about the allegation that is made by some, and I fear would be made again were we to undertake public Treasury financing of political campaigns, that we are in effect perpetuating ourselves in office by coming to the seat of power, so to speak, where we have control of the purse, and then appropriating funds for our own reelection?

Senator McGOVERN. Except that the same funds would be made available to the challenger. No one has ever proposed that it be limited to the incumbent.

Senator BAKER. That is true. But let's think about that just for a second. If the same funds are allowed to the challenger, I am reminded of the very appropriate remark you made earlier in your testimony: Challengers need more money generally than incumbents in order to gain name recognition, in order to put forward proposals and ideas, and to establish the issues and an identification with those issues.

Isn't it inherently unfair to have the same funds available to an incumbent and a challenger even if they are paid from the Federal Treasury?

Senator MCGOVERN. I think, Senator Baker, that under the present system, you have an even worse condition in that it is easier for an incumbent in most cases to attract campaign contributions. He does have the name recognition, he has probably not a widespread network of contacts he has built up over his years in public office. While it still doesn't neutralize the advantage of an incumbency, a bill that provides an adequate level of financing for both candidates certainly improves on the present situation.

An unknown candidate, as you know, has difficulty at best competing with an incumbent when they begin without any kind of assurance of at least a minimum base of support. At least the kind of limitations that this bill proposes plus the checkoff system provides the possibility of some degree of equalization in that regard.

Senator BAKER. I reiterate the remark I made yesterday. I honestly believe that if we created a furor when we raised our own salary that you "ain't seen nothing" compared to the furor we will create if we provide for Federal financing of our own campaigns.

Senator MCGOVERN. My primary purpose here today was not to advocate a program of publicly financed campaigns. I was really responding to Senator Hart's suggestion.

Senator BAKER. I think your own remarks in that respect were very apt. I entirely agree with them. I think they are matters that must be dealt with by this committee. I don't think you can conduct a campaign in South Dakota or Tennessee according to the same formula as used in New York or California.

Senator MCGOVERN. I think that is true.

Senator PASTORE. On this subject, Senator, I was very much intrigued by what you said: That 80 percent of the money you collected came from small contributors, at an average of about \$30 per person. To me, that is a very salutary situation. Do you attribute this somewhat to the law that we passed allowing a deduction or credit on your income tax?

Senator MCGOVERN. I really have no way of knowing. That may have had something to do with it.

Senator PASTORE. The reason I ask is that, as a substitute for taking money out of the Treasury, maybe we ought to be a little more liberal in allowing credits and deductions. Then an individual could participate in an election and take a deduction or credit in a small amount from his income tax. Just to get more widespread participation on the part of citizens.

Senator MCGOVERN. I think that, of course, is a very healthy direction for us to move. I even think that principle, if it is constitutional—and I believe it is—could be extended to the financing of State and local races. I don't know whether there would be any constitutional problem involved in, say, a \$25 tax credit which the taxpayer could designate if he wished for somebody running for the State legislature or running for the city council. Whether that would be improper for the Congress to legislate a tax credit for those purposes, I don't know.

Senator PASTORE. As a matter of fact, when I argued the bill on the floor, I said "Anyone running for the school committee."

Senator McGOVERN. I think that is all to the good. I am told that in some areas even running for city council, for example, in a city the size of Chicago, an alderman may spend \$75,000 or \$100,000 on a race just to sit on the city council. Probably the same thing is true in some of the other larger cities.

So anything that encourages large numbers of citizens to make contributions I think is all to the good. It just reduces the influence of special interests and enables the candidate once he wins office to know that his obligation is to the people, not to a handful of powerful figures.

Senator PASTORE. Senator Moss?

Senator Moss. Thank you, Mr. Chairman.

That is a very thoughtful and well worked-out statement, Senator, and I appreciate your point of view. I wanted to pursue just a little bit this \$1 checkoff which is apparently not going well at all, in good part, perhaps due to the fact it is on a separate form.

Don't you think maybe part of that problem is that at this particular time when there is no campaign in the air, nobody is really thinking about it and, therefore, the likelihood of taking the checkoff is reduced very drastically?

It seems to me this fits in with your statement also that you think a citizen ought to have the privilege of making a contribution out of his pocket because of the feeling of involvement that he gets which is desirable and almost a necessity in our system of representative government. Could you comment on that?

Senator McGOVERN. Yes. I think probably the Senator is right. I hadn't really thought about that. But I am sure that the system would have worked better, say, a year ago, at a time when we were all thinking about the national race, than it does right now in the wake of a campaign.

Senator Moss. But as I understand, although you defend the \$1 checkoff and think we ought to keep that, you would also like to keep open the right to make a contribution, provided it was not a huge amount?

Senator McGOVERN. Yes, absolutely. I can't conceive of this country ever going to a system that relies fully on the public financing of campaigns. I really think it deprives the citizen of a privilege and the right that he should have which is to make a contribution to the candidate or the party that he favors.

Senator Moss. Of course, I agree fully with you that in the fund-raising area the challenger never has the opportunity to attract contributions the way the incumbent does. In fact, my observation and experience is that the incumbent has a 2- or 3-to-1 advantage over the challenger in attracting political contributions. The challenger has a really tough time getting money to come in.

It seems to me in order to keep the thing as fair as possible, we ought to keep the level of spending down to some point so that the challenger can get there.

Senator McGOVERN. Yes, I agree with that, Senator Moss. The other side of that is not to hold the spending limit so low that the challenger doesn't have a chance to become known. That was the other point I wanted to make in my testimony here today.

Senator Moss. Thank you very much.

Thank you, Mr. Chairman.

Senator PASTORE. Senator Beall?

Senator BEALL. Senator McGovern, I am sorry I wasn't here when you began your statement, but I agree with much of what you said.

I am wondering particularly with regard to the statements you made with regard to the limitation on total expenditure being unfair across the country, and if we agree with that I wonder if perhaps we can accomplish our purpose of limiting the amount of money that is spent in an election by zeroing in on the individual contributions that are allowed and reaching the same goal.

For instance, in Maryland we don't have any limit on the total amount that you might spend in an election but we do limit contributions to \$2,500.

In my case when I ran for the Senate, the campaign cost about \$45,000 and my opponent spent a little bit more than that, but we had that limitation. A lot of small contributions and both campaigns I suspect, were adequately financed. There wasn't an excess. But we do have the limitation on the amount that an individual could contribute.

Senator MCGOVERN. I favor that, Senator. I think there should be an individual limitation. I have proposed that in no race should it go beyond \$3,000 by a single individual.

Senator PASTORE. Could I ask a question on that point. Would that \$2,500 limitation apply even to a contribution to the Presidency in Maryland?

Senator BEALL. I don't think so. As a matter of fact, we all presumed the law was with regard to Federal offices and nobody accepted contributions in excess of \$2,500, but I do wonder if a Federal candidate could say the law doesn't apply to him for Senate or Congress. I don't think it applies to the Presidency.

Second, I am wondering if that is true, then another question comes to my mind. If we do limit the individual contributions, what impact does this have on the ability of an individual to enter early primaries if he is running for the President?

Senator MCGOVERN. As I said earlier, Senator, I think we demonstrated in the 1972 primaries that it is possible to raise a substantial budget from small contributors.

I can tell you in my own case the average contribution in the primaries came out to about \$14 or \$15, somewhere in that range but we relied rather heavily on direct mail. We worked hard at it. We relied on a volunteer organization in the field to solicit funds.

But it can be done. You can put together a well-financed primary campaign as well as a general election campaign based almost entirely on small contributions.

Before you came in I said in the primaries and the general election we raised and expended somewhere around \$25 million. We didn't come out with a big deficit in this campaign. I think it was around \$200,000 which has since been pretty well liquidated.

So we ran what can be described as a fiscally sound campaign and we did it largely on small contributions.

Senator BEALL. Were those contributions available when the candidacy was initially declared or did they come after the fact?

Senator MCGOVERN. After the fact. They had to be raised after the announcement.

Senator BEALL. So you have to start out with a commitment from certain individuals, either in the form of direct contributions or loans in order to get your campaign off the ground?

Senator MCGOVERN. Either that or you start off on a very tight shoestring which is what we had to do.

Senator BEALL. Also you pointed out that the bulk of your campaign contributions were small, you said 80 percent. It seems to me that Senator Goldwater has made the same observation with respect to his campaign, that the bulk of his contributions were from small contributors.

I am wondering if this is a condition that applies to challengers rather than incumbents.

Senator MCGOVERN. It may be. I suppose that has been the historic record. I don't think it needs to be that way. I think that both the challenger and the incumbent could do much better than we have historically and be appealing to campaign financing to large numbers of people who are never asked to contribute.

The problem in raising campaign funds from large numbers of people is to ask large numbers of people to contribute. Sometimes it is easier to depend on a few people to stake a campaign, but it is not necessary to do it that way.

If you are willing to work through direct solicitation and you recruit the people to make this solicitation, use the direct mail techniques, I am convinced whether a candidate is running as an incumbent or a challenger that a considerable amount of money can be raised from small contributions from large numbers of people who ordinarily are never asked even to participate.

Senator BEALL. Thank you.

Senator PASTORE. Senator Cannon.

Senator CANNON. Thank you, Mr. Chairman.

Senator MCGOVERN, with respect to section 315, you indicated that you believe that it should be repealed with respect to the Presidential race. In consideration of our previous bill, many people supported the repeal of section 315 for all Federal offices.

Do you have a view on that?

Senator MCGOVERN. That would include the Congress?

Senator CANNON. Yes.

Senator MCGOVERN. Well, I suppose I would favor that, Senator. I think it is more important, though, to concentrate as far as that part of the bill is concerned on the Presidential race, but I would tend to favor to make that opportunity as open as possible to Congressmen and Senators as well.

I am more concerned about the importance to the country of permitting these great nationwide debates to take place, and that is why I limited my own recommendations here to the Presidential race.

Senator CANNON. I would agree it would certainly have more of an impact with respect to a Presidential race, because that is a nationwide race, and it would not be subject to all the variances that you might have in a Senate or House race.

Senator McGOVERN. My impression, too, is local television stations, if the candidates wish, will ordinarily work out some kind of an arrangement whereby two or more competing senatorial candidates can get access to debate time.

Senator CANNON. I was interested in your statement when you say that "One thing we did demonstrate is that it is possible to finance even a campaign of that kind almost entirely on small contributions."

My question is: Was the campaign fully financed, or did you find that the contributions were not adequate enough?

The reason I ask that is one of the witnesses I believe yesterday indicated that you had to make appeal for larger contributions at least toward the end of the campaign.

Senator McGOVERN. Yes. We at all times, Senator Cannon, tried to solicit large contributions as well as small ones. We never did anything to discourage the large contributors. But the point I am making is that in excess of 80 percent of the total budget came from contributions that averaged \$30 or less. An even much higher percentage of the campaign, although I don't have the exact figures, came from people who contributed below \$3,000. I would think that less than 10 percent of the campaign contributions came from people who contributed in excess of \$3,000.

Senator CANNON. How high did those contributions go? What were the highest contributions?

Senator McGOVERN. I think probably the highest contributions may have gone to a couple of hundred thousand dollars. This is one of the problems that we have with the present law. There are so many loopholes in it. People can contribute to 40 different committees if they want to and give \$5,000 to each one of those committees. It is a loophole big enough to drive a locomotive through.

Senator CANNON. Even the loophole was taken away in the last law, because the \$5,000 limit is not there. So they needn't contribute to a lot of different committees under the present law.

Was the campaign completely financed through the sources now that you used, or did you end up with a big deficit?

Senator McGOVERN. No, we did not end up with a big deficit, Senator. I think on election day we owned a couple of hundred thousand dollars, largely in salaries for the last couple of weeks of the campaign.

We could see that we were running short on money and we notified our paid workers, that is, those who were earning more than \$100 a week. We notified them that we couldn't pay them after October 15, that if they chose to stay on beyond October 15 they should consider it as a contribution to the campaign, but we would do our best to compensate them after the campaign.

We have now taken care of that situation. My recollection is we ended up somewhere between \$200,000 and \$250,000 short, and that has largely been taken care of.

Senator CANNON. Did that hamper the campaign at the time, the fact that you didn't have funds in hand?

Senator McGOVERN. Yes. We would have been helped had we had more funds for election day activities, and to keep a full force of people on board would have been helpful.



Also, I will say this, Senator, I think the records will show that we didn't have anywhere near the financing that our opposition did. They were able to do certain things that we just couldn't afford.

We did raise and spend a great deal of money, and we did it largely on the basis of small contributions. I think in contrast to the previous campaign in 1968 which ended up with a \$7 million or \$8 million deficit and where most of the contributions that were made came from rather substantial contributors, we demonstrated that it can largely be done free of a deficit and done with small contributions. Those were the two great achievements on our financing.

Senator CANNON. If we adopt a proposal such as Senator Pastore is advocating, that is, to limit so much based on the number of eligible voters—I am talking now about the Presidential campaign—and if we still keep your suggestion that a person can contribute not more than \$3,000 per person, what kind of a balance are you going to work out, or do you have any suggestions for a balance as to how you work out the public contribution toward the campaign as distinguished from the individual contributions?

Senator McGOVERN. That is the dollar checkoff, the dollar checkoff amount?

Senator CANNON. Senator, as I understand it, it is really the voter's option to make that decision.

Senator McGOVERN. What I am saying is if we place a limit, do we place a limit on the amount they can spend and, if so, do we have to wait and see what they get in individual contributions before determining how much from the Federal fund could be turned over to them?

Senator PASTORE. I think I can answer that question because I was right in the middle of it.

Under the law as we have passed it, the amount that any one can receive is \$20 million to run for President. If he chooses to take the \$20 million, that is it. That is his ceiling. He cannot raise or spend any money over and above that \$20 million. But if in the Treasury there was only, let's say \$15 million per person, then he could raise privately the difference of the \$5 million. But the spending limit would be the \$20 million.

Senator CANNON. So if Senator McGovern's suggestion were adopted, the \$3,000 per person, then he could only make up that difference from those types of contributions?

Senator PASTORE. If it fell short, and he chose to go the public way—he doesn't necessarily have to go that way—but if he goes the public way, the amount he can receive is \$20 million, and that is all he can spend.

Senator CANNON. Thank you very much.

Senator PASTORE. Thank you very much, Senator.

Senator McGOVERN. Thank you very much, Mr. Chairman, and members of the committee.

(The statement follows:)

STATEMENT OF HON. GEORGE McGOVERN, U.S. SENATOR FROM SOUTH DAKOTA

Mr. Chairman, I welcome the opportunity to testify on your proposed legislation, S. 372, to amend the Campaign Communications Reform Act. The issues

related to this bill have a great deal to do with whether democracy itself can continue to function in an age of modern communications and big money.

I support wholeheartedly the first part of the bill, which would amend the equal time requirement of Section 315 of the Communications Act. Permanent suspension of that provision with respect to presidential and vice presidential candidates, coupled with the networks' promise to provide substantial amounts of free time, would assure a much better flow of significant information to the electorate. It would help reduce the massive cost of buying broadcast time. And it would free the broadcasters from an archaic provision of communications law which has not insured fairness at all, but instead has served only to prevent intelligent election programming. I remain convinced that face to face debate is by far the best way for the American people to compare the candidates and their programs, and I consider it a tragedy that Section 315 is still used to deny them that opportunity.

I also endorse some form of comprehensive spending limitation, to hold down spiraling campaign costs. The present limitation on media spending is a step in the right direction. But we must build on that beginning lest we soon reach the point where a candidate's ability to raise a big campaign war chest is more important than his capability to hold office. We are dangerously close to that point now.

At the same time, Mr. Chairman, I have some doubts about the solution provided by the legislation you are presently considering.

It is important to keep in mind that our main goal should be to reduce the political influence of money, not to retard political campaigns. I do not see the objective of this legislation as limiting the people's exposure to political candidates or vice versa; on the contrary, if they are properly used, new forms of communication can make our system work better. Yet in many cases the twenty-five cent per voter limitation in the bill as it stands now could sharply restrict the ability of candidates to make their views known.

In presidential elections, that twenty-five cent figure would work out to a limit of approximately \$32 million. Certainly that is an adequate figure, particularly if the networks come through on their pledge of free time. No presidential campaign need cost more than that.

In the case of senate and congressional campaigns, however, the twenty-five cent limit could have some unhealthy effects, growing out of differences among the states. It would have little effect on states with larger populations, but a decidedly restrictive effect on states with fewer people.

Senatorial campaigns in New York and California, for example, would be limited to a figure somewhere between \$3 and \$4 million. That should certainly be an adequate if not overly generous figure; as far as I know it is well above what have come to be the usual expenditures in campaigns in those states.

But under the bill as drafted the limit on total spending for a Senate campaign in Wyoming, for example, would be only \$50,000—the same figure the 1971 act allows as a minimum for telephone and media costs alone. The same figure would apply in Alaska. In Montana the limit would be about \$117,000; in Idaho it would be \$110,000; in South Dakota, \$126,000. That would be the maximum permissible expenditure for all campaign activities.

All of these are states with widely scattered, rural populations and sizeable geographic areas. As a result, the fixed costs of campaigning are comparatively much greater than for states where most of the population is concentrated in urban centers. For a comparable dialogue with the public, items such as travel, office expenses, organization, and mail take a much larger investment per eligible voter than in bigger states.

By way of illustration, I have seen no indication that the ten cent limitation on media has brought about any drastic reductions in what would have been spent otherwise in rural states, even though media time, too, costs more per voter when the population density is low. But in the most recent Senate campaign in South Dakota, media and telephone spending accounted for only about twelve to fifteen per cent of total spending. Candidates for both parties found it necessary to spend six or seven times as much on other expenses.

So in the case of sparsely populated states, the overall twenty-five cent limit would produce a sharp cutback from customary campaign activities, to about a third or less of what has been deemed necessary for an effective campaign in recent years. It would curtail campaigns in those states far more than in urban centers. In the process it would tend to greatly strengthen the inherent advantage of the incumbent, by denying the challenger an opportunity to give his views and

qualifications exposure on a par with the news coverage an incumbent receives simply by virtue of holding office.

As I have said, the twenty-five cent limit does seem reasonable in the case of presidential campaigns. But in the case of senate and congressional races, we should look for alternatives which will serve the same objective without creating vast disparities among the states.

One workable method might be to establish a base in the range of \$400,000, similar to the \$50,000 telephone and media base in the 1971 act, and then set twenty-five cent limitation on all spending beyond that level. I hope the Committee will consider an approach of that kind.

A solution of this kind would deal adequately with the question of campaign costs. But it would deal only indirectly with another concern which I regard as still more serious—the continuing ability of big contributors to buy favorable attention from public officials.

There have probably been enough revelations about big contributions under questionable circumstances in this last presidential campaign to convince many voters that you get exactly the kind of government you pay for—if you can afford to invest large sums through campaign treasuries. I am convinced, moreover, that existing disclosure requirements are not enough to have much effect on either the way funds are raised or the way public officials treat big donors. The policy quo can often escape exposure even if the campaign *quid* is disclosed. And the entire system works against the best interests of the ordinary voter and taxpayer.

Therefore, I would like to see a flat and enforceable limit of no more than \$3,000 on the amount any one individual can contribute to a political campaign whether for the White House or the Congress.

We may have left many points unproved to the voters in the presidential campaign last year, Mr. Chairman. But one thing we did demonstrate is that it is possible to finance even a campaign of that kind almost entirely from small contributions. Roughly 80 percent of our funds were raised from direct mail solicitations, with average contributions of about \$30. While we do not have the figures broken down that way, I would estimate that a far greater proportion of the total funds came from supporters who gave \$3,000 or less.

Based on that experience, there is no longer the slightest question in my mind that both parties could finance their campaigns adequately under a limit of this kind, on nationwide, statewide or district levels. And I am just as sure that we would have a healthier, more responsive and more democratic government as a result.

The limit must be firm and enforceable, so that efforts to raise small contributions will not be passed over lightly because they are cushioned by back-door romances with bigger money. If we expect the people to depend on their representatives, then it is time we required representatives to depend on the people as well.

It is also relevant in this context to raise the question of public financing of campaign costs. The best method presently available is the \$1 checkoff system initiated in the last session of the Congress. However, just as our distinguished colleague, Senator Humphrey, predicted, the system has produced disappointing results this year because of the way the Internal Revenue Service separated the checkoff from the main tax form. The *Washington Post* recently reported that only four percent of the tax returns being processed include the checkoff. If that rate prevails for all taxpayers, the system will fall far short of expectations and even further short of legitimate campaign needs.

Senator Mondale has sponsored legislation, S. 1109, to require that the checkoff be included on the front page of the tax return, and to require that the Internal Revenue Service publicize the advantages—including the fact that using the checkoff adds nothing whatsoever to the individual's tax bill. I have cosponsored that proposal. In the meantime, I hope all of us can draw public attention to this option in the days remaining before April 15 and I hope the Internal Revenue Service will do what it can on its own motion toward that end.

Let me reiterate, Mr. Chairman, that the issues under consideration by this Committee go to the heart of our political process.

Some months ago I saw a study done under the auspices of the University of Connecticut which surveyed public confidence in various groups of people. Out of twenty groups, politicians came in nineteenth, behind professors, business leaders, dentists, doctors, judges, and a long list of others.

I am convinced that money has a great deal to do with the cynicism and distrust toward political leaders. We can rekindle the confidence of the people

only if we finally resolve, in a truly credible way, this whole question of financing campaigns.

That will not be accomplished by spending limits which have the effect of restricting contact between candidates and voters. But it can be done through face to face debates between candidates, through a flat limit on individual contributions, and through a system which will enable candidates to finance their campaigns without depending on those who seek to buy personal shares in the public trust.

Senator PASTORF. Mr. Cole. We are very happy to have you, Mr. Cole, as our witness today. I understand you have a statement. You may proceed in any way you see fit.

**STATEMENT OF JOSEPH COLE, NATIONAL FINANCE CHAIRMAN,  
DEMOCRATIC NATIONAL COMMITTEE**

Mr. COLE. Thank you, Mr. Chairman.

The cost of elections in the United States has reached scandalous proportions in the last decade. Costs have risen in both presidential and nonpresidential elections at alarming rates.

In the congressional and senatorial races, spending rose 10 percent between 1962-1964; 36 percent between 1964-1966; 35 percent between 1966-1968; and 48 percent between 1968-1970.

In the presidential races, spending rose 40 percent between 1960-1964, and 46 percent between 1964-1968.

Although the calculations for 1972 are not complete, we expect the totals to be even higher. This in spite of the Election Spending Act of 1971.

The rising costs, unfortunately, have not given us a better return on our money. I mean this from the viewpoint of the candidates, as well as the voters.

Obviously, it is difficult to tell a losing candidate that his expenditures—often a million or more dollars even in senatorial races—were well spent. It is even more difficult to tell the voter—often deluged with 10- and 20-second spots for a plethora of candidates—that his contributions are being used to the best advantage.

Not only the spending, but the collection of moneys is increasingly unproductive. Not because contributors are less willing to give, but because the cost of collection is increasing. The cost is so high in fact, that it has been estimated in some cases that less than one-half of every fund-raising dollar goes to the candidate.

I sincerely believe that if a strict limitation on spending were enacted and adhered to, much of the effort spent on fund raising could be diverted to the more important purpose of informing the voter of both the issues and the candidate's stand on them.

Additionally, it hardly need be added that the vast amounts of money solicited and the large amounts donated by individual and special interest groups, if not resulting in outright illegal or unethical dealings, at the very least give that impression to the voters.

It is my opinion that the survival of our political system today is endangered by this specter with which I have had a lot of experience lately. Mr. Chairman, I believe that everybody is aware of the problems of campaign financing and spending. The question is, what is going to be done about it.

The Federal Election Campaign Act of 1971—Public Law 92-225—was a step in the right direction. It was primarily responsible for pro-

viding for the most openly financed election in our history. But I believe with the experience gained from this law we can go further. Enactment of S. 372 is that next step.

In the section repealing the equal time provisions of the Communications Act of 1934, we open a whole vista of benefits to both candidates and voters. The networks have made known to us that the opportunities for appearances by major party candidates will be greatly increased. Forums for discussion of the issues by and with candidates will be opened. Debates between or among major candidates will no longer be hindered.

We all realize and, I'm certain, have great empathy for incumbent candidates and front-runners who are reluctant to hold public debates. However, I believe that such debates are in the public interest and ultimately will help insure the success of the best candidate. Today, almost 4 years prior to the next Presidential election, no one is in a position to know to whom such increased public exposure, whatever the form, will be of benefit. This is the perfect opportunity for a bipartisan move to enhance the election process.

Section 104 of the bill would limit spending for all purposes to \$.25 per voter. This is a realistic limit that should adequately cover legitimate campaign expenses. According to the latest census figures, this would have enabled a Presidential candidate to spend over \$34 million in last fall's election. This is a figure which is adequate and acceptable to any reasonable and experienced campaigner.

We of the Democratic Party, however, feel that some amendment should be made to the limitations on spending "State by State" in the Presidential primary elections.

Since we fully recognize the difficulties inherent in eliminating such restrictions in primary elections, we would respectfully submit the plan agreed to by the Democratic Presidential candidates in December of 1971 to limit primary media expenses. And the 25-cent limit for the general election, but not restricted by State, would be the best of all alternatives.

Senator PASTORE. We have a copy of that agreement, and I ask that it be placed in the record at this point.

(The document follows:)

#### TEXT OF AGREEMENT

WASHINGTON, D.C., DECEMBER 2, 1971,

We the undersigned agree to this voluntary method of limiting expenditures for television, radio, newspaper advertisements and billboards in the 1972 Democratic presidential primaries, and join in setting forth the following specifics of the understanding:

1. Expenditure limits in 1972 for buying time on radio and TV in states with presidential primary elections will be not more than 5¢ per registered voter in each state as of January 1, 1972. Direct expenditures by the candidates and indirect expenditures by committees or individuals on behalf of their candidacy or pledged delegates are included.
2. The individual state limitations will not be transferable among the States, except there will be a contingency pool up to one-third of which may be applied to increase the expenditure in any single state. Allocations to the contingency pool will be made by reducing each state's allowable expenditure by five per cent. In specific areas where there is a media market overlap, expenditures will be allocated on the basis of the primary election dates. For example, if a candidate elects to enter both the New Hampshire (March 7th) and Massachusetts

(April 25th) primaries, he is limited to the New Hampshire allocation plus more than one-third of the contingency pool prior to March 7th—the date of New Hampshire primary.

3. This agreement will be self-policing. The reporting requirements under regulations provide adequate public records by which the good faith compliance can be monitored. Additionally, the candidates urge individual radio and television stations prior to election day to make available a public statement of actual purchase of broadcast time by each candidate or on behalf of candidate.

4. The participants to this agreement further agree to a voluntary method limiting the campaign expenditures for newspaper advertising and billboards in the 1972 Democratic presidential state primaries.

## PRIMARY STATES

Date			Date		
5¢ per registered voter (minus 5 percent)			5¢ per registered voter (minus 5 percent)		
<b>East:</b>			<b>Midwest:</b>		
New Hampshire.....	Mar. 7	\$18,000	Wisconsin.....	Apr. 4	\$18,000
Rhode Island.....	Apr. 11	22,000	Ohio.....	May 2	11,000
Pennsylvania.....	Apr. 25	257,000	Indiana.....	do.	11,000
Massachusetts.....	do.	124,000	Nebraska.....	May 9	11,000
District of Columbia.....	May 2	12,000	West Virginia.....	do.	11,000
Maryland.....	May 16	76,000	South Dakota.....	June 6	11,000
New Jersey.....	June 6	151,000	<b>West:</b>		
New York.....	June 20	353,000	Oregon.....	May 23	11,000
<b>South:</b>			California.....	June 6	4,000
Florida.....	Mar. 14	133,000	New Mexico.....	do.	11,000
North Carolina.....	May 2	92,000	5 percent contingency pool.....		11,000
Alabama.....	do.	75,000	Not more than 33 1/3 percent.....		0
Tennessee.....	May 4	81,000	<b>Total, media spending limit (all primaries plus contingency pool).....</b>		
Arkansas.....	June 27	39,000			
<b>Midwest:</b>					
Illinois.....	Mar. 24	254,000			

Mr. COLE. A strictly State-by-State limit does not take into account the realities of what is, in effect, a national race. Consideration of media markets, population, ethnic and ideological concentrations strain a candidate to emphasize different localities to a greater or lesser degree. It is not only in conflict with political reality, but an infringement upon the candidate to impose a complete restriction on media during the primary elections.

Regarding the primaries, the State-by-State limitations would prevent any candidate from "buying" a primary. At the same time a contingency fund would allow candidates the latitude to concentrate on what they felt were the most important primaries.

This plan worked well for the Democratic candidates in 1972. Various modifications, I feel it will be a welcome and proper addition to the bill.

Mr. Chairman, in addition, I would like to comment that I have been familiar with your efforts over the years and being in the forefront in an effort to develop and improve the campaign contribution laws, and I really want to take advantage of this opportunity to commend you for your efforts and I hope to see them continue successfully.

Senator PASTORE. Thank you very, very much.

Senator HART?

Senator HART. No questions. Thank you very much.

Senator PASTORE. Senator Beall?

Senator BEALL. Just one question. Did that limitation of 5¢ apply to the total registered voters in the State or the registered voters in the primary of the party?

Mr. COLE. It applied to the eligible voters.

Senator BEALL. Overall?

Mr. COLE. Right.

Senator BEALL. It didn't make any difference whether it was a big Democratic or Republican State?

Mr. COLE. That's right, the total voter.

Senator PASTORE. Senator Moss?

Senator MOSS. Thank you, Mr. Chairman.

I am very much impressed with your statement, Mr. Cole. Looking at these figures here in the second paragraph about the increase in campaign costs from 1962 and continuing on to 1972, causes me to give a low whistle. I knew the costs were rising tremendously, but to have them put into percentages like this indicates that something just has to be done. It is going out through the roof. Do you think the 25-cent limitation is too small?

Senator McGovern thought there should be some exception made for sparsely settled States of large area.

Mr. COLE. I listened to Senator McGovern's comment. As a rule, I would feel that the 25-cent limitation is not too small. What he failed to take into consideration or failed to mention here, and where I differ is in a State where due to the population you may have a severe limitation, be it \$50,000 or \$100,000, and now you are talking about a senatorial campaign where help was in a Presidential campaign, if it is true that it applies to all candidates and the two candidates are both limited to this amount, you don't have the same kind of pressure to spend a lot of money, because if your opponent is restricted in the same fashion, you are able to get the exposure because you are not fighting with \$50,000 against a candidate that might have \$300,000 or \$400,000. That is where it becomes a difficult problem. You will find when everybody is limited to a reasonable basis that you will then be in a position to get significantly more exposure free—free publicity in the newspapers and in the media that you don't have to pay for. The problem comes when one man has \$50,000 to go with and another one has \$300,000 or \$400,000. That is unfair and it is impossible. But I don't see any problem if there is a limit on all candidates.

Senator MOSS. I have great sympathy for having a ceiling applicable to both. Because my personal experience is that both candidates tend to waste a lot of money by thinking the other one is ahead and, therefore, they throw in a little extra. It just pyramids and snowballs. After it is all over, looking back on the campaign, you say we wasted 25 or 30 percent of the money.

Mr. COLE. They sure do, and I would comment on one other point, and that is the large contributor, a subject with which I have considerable experience. I tell you that this is the most unattractive and difficult thing about running for public office today. When I watch a presidential candidate demean himself and drive himself to rush to spend a minute or two for a potential large contributor instead of tending to his business or tending to the issues of the campaign, the priority that is given to win favor with these large contributors is very disheartening to observe.

I think that anything that is done to decrease that or eliminate that would be a very effective thing for the country as a whole.

Senator MOSS. That may be one reason why we finish up 19th on the scale, perhaps, in the rating?

Mr. COLE. Right.

Senator PASTORE. It is a little more than that, it is personal pride and self-respect. I, myself, have always been embarrassed and humiliated, and had butterflies when I had to do these things. It is not a pleasant thing to do. You almost feel like a beggar. If you are independent, it isn't a matter of whether or not you will become beholden, it is a matter of whether or not you are putting your self-respect on the line sometimes. You show up, you may pick up a glass that you don't want to pick up anyway. Some people can do it easily. Others can't. I am one of those who just can't do it, that's all.

Senator MOSS. If the Senator will yield, I feel the same thing. I have had my campaign men say, "Now, look, Senator, if you will just pick up the phone and just say a few words to Joe, we can go over and pick up some money." I say, "To heck with it; I have got nothing to say to him."

Senator HART. Why not just don't pick up the subsidy checks?

Senator PASTORE. That raises another question. I don't think we are ready for it, Phil, if I must be honest about it. I don't think the public is ready to have all these campaigns financed by public funds. I am very impressed by what Mr. Cole says. Maybe there is some merit to the fact that maybe \$50,000 in Wyoming is too small; and maybe we ought to set a floor by saying in no case should it be less than \$100,000 or \$150,000. You have got to reach a reasonable figure to bring the issues to the attention of the public and to expose the candidates. I quite agree with that. But it has always been my feeling that half of the money that you spend in the campaign is wasted, and the day after you are elected you say, "My goodness gracious, I will never do it again." Then you catch yourself doing it all over again.

Mr. COLE. Mr. Chairman, while the previous witness was testifying, and you made a point of the question of a formula, while I don't have one to offer at this time, it doesn't seem to be a very difficult thing to develop in an equitable way, a formula combining several factors:

One, a minimum to take care of those States who wouldn't reach a practical figure based on their population, but also their geographic size, and then the balance may be in connection just with the population. That is probably the only inequity you have to take care of. I think it is not difficult at all to work out a formula on that basis, studying the individual States.

With regard to your comment, and I know I am repeating the point in connection with this, I have seen candidates for the highest of offices get up 2 hours before they are physically able to get up in order to meet with a potential large contributor for whom they may not have any personal feeling, but are willing to do it, and thereby making themselves even unable to face the problems and the issues of the campaign.

I think this is what bothers most of the American people. I think that this is something I would like to address some of my activities to for a number of years to come. I think that would be the greatest thing we could do, to eliminate that.

Senator PASTORE. I agree with you, Mr. Cole.

Any further questions of Mr. Cole?

Senator CANNON. I just wondered, Mr. Cole, do you have any estimate as to the percentage of time that a national candidate spends in



trying to raise funds? Has that ever been advanced by any of the candidates?

Mr. COLE. I can give you my offhand opinion that he spends more than 50 percent of his campaign time in fundraising activities, and that might be low.

Senator CANNON. So, if he is involved in a difficult problem of raising funds, then, he is curtailing his opportunity to campaign as compared to someone who may have no problem in raising funds?

Mr. COLE. Inability to raise funds and the difficulty involved absolutely prevents him from presenting himself to the American people adequately and the way he would probably like to.

Senator CANNON. Thank you very much.

Senator PASTORE. Thank you very much, Mr. Cole.

[The following information was subsequently received for the record:]

DEMOCRATIC NATIONAL COMMITTEE,  
Washington, D.C., March 29, 1973.

Hon. JOHN O. PASTORE,  
*Chairman, Communications Subcommittee, Senate Commerce Committee,*  
Washington, D.C.

DEAR MR. CHAIRMAN: Some problems have been brought up in regard to spending limitations by population in Senatorial campaigns. There are 7 states—Alaska, Delaware, Nevada, North Dakota, South Dakota, Vermont and Wyoming—which would be allowed about \$100,000 or less for Senate races. All but Vermont and Delaware have large areas and consequently some increase in costs. Both Vermont and Delaware have media market problems resulting from the necessity of purchasing in a media market area which includes surrounding states. Additionally, it would seem the main problem is one of normal campaign overhead costs. Staff, offices, telephones, etc. are generally the same whether the state is large or small (population-wise).

Costs of certain campaign activities such as polling have a base cost that may not be greatly reduced because of differences in the gross population of the state. Media markets play a greater and more complicated role than can be determined simply by looking at media costs per voter by time. Media markets do not conform to political boundaries and media purchases usually involve some waste. All these things combine to give a basic costs to campaigns that is to some extent irreducible. In the cases of these lightly populated states it is not a question simply of whether there is over-spending, but one of over-spending in relation to these fixed campaign expenses.

There are three primary ways to solve this problem.

1. To set a base and add the population determined figure to that. This would add money to the states that do not need it as well as to those that do.

2. To determine a ratio of population to area and mathematically determine a multiplier for each state to bring all states to the same ratio. This would lower the costs in some states but raise them in many others. The overall effect would be very fair, but very costly. A more complicated relationship could be evolved incorporating media market efficiency and other variables but the effect would be the same, increased costs.

3. The third method would be to set an alternative level, say \$175,000, that would reasonably be expected to cover fixed costs plus allow a healthy amount for other campaign costs. A candidate would choose either the \$175,000 maximum or population limit whichever was higher. His spending would be limited, but there should be no complaints about undue spending limitations.

In the latter case 15 states would be able to take advantage of this alternative. (See attachment) Only in 4 states—Alaska, Vermont, Nevada and Wyoming—would it as much as double expenditure allowances. The increases for the rest would range from \$82,250 in Delaware to \$2,750 in Utah. This limit would enable any candidate to spend the money necessary to carry on a good campaign, but keep spending within reasonable bounds.

It would seem that the third alternative is the most reasonable as far as both spending limitations and fairness, and I would favor it personally.

Thank you for soliciting my opinion. If I may be of further service to you or your Committee, please feel free to call on me.

Sincerely,

JOSEPH E. COLE,  
Finance Chairman, Democratic National Committee.

States	Population (thousand)	Present spending limit	Increase with \$175,000 spend- ing limit
Alaska.....	200,000	\$50,000	\$125,000
Delaware.....	371,000	92,750	82,250
Hawaii.....	531,000	132,750	42,250
Idaho.....	479,000	119,750	55,250
Maine.....	666,000	166,500	8,500
Montana.....	460,000	115,000	60,000
Nevada.....	348,000	87,000	88,000
New Hampshire.....	521,000	130,250	44,750
New Mexico.....	636,000	159,000	16,000
North Dakota.....	402,000	100,500	74,500
Rhode Island.....	673,000	168,250	6,750
South Dakota.....	434,000	108,500	66,500
Utah.....	689,000	172,250	2,750
Vermont.....	309,000	77,250	97,750
Wyoming.....	225,000	56,250	118,750

Senator PASTORE. Mr. Burch, as always, we are very happy to have you, Dean.

#### STATEMENT OF HON. DEAN BURCH, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

Mr. BURCH. Thank you, sir.

Mr. Chairman, I welcome this opportunity to appear before you once again on behalf of the Federal Communications Commission and to explore with you the very important subject of political broadcasts.

The significance of broadcasting's role in the electoral process is well known and was demonstrated again during the most recent campaign period.

The bill under consideration, S. 372, has two principal provisions. The first would repeal the equal opportunities requirement of section 315 of the Communications Act for Presidential and Vice-Presidential candidates. The second would establish an overall spending limit for campaigns for Federal elective office.

Repeal of the equal opportunities provision would, of course, have the most direct effect on the administrative duties of the Commission.

The Commission supports the repeal of the equal opportunities requirement in elections for the offices of President and Vice President. However, as I will point out later, we believe that the public interest would be better served by a revision of the equal opportunities requirement that would apply not only to Presidential and Vice-Presidential candidates but to all candidates for offices in general partisan elections.

Experience is an excellent instructor in this area. History shows that the equal opportunities requirement of section 315 has substantially discouraged broadcasters from supplying free time to candidates for the Presidency.

This is so because the broadcaster would be required to afford an equal amount of free time not only to the major party candidates but

to fringe candidates as well such as candidates of the Socialist Labor, Socialist Worker, Vegetarian, and People's Parties.

Faced with this prospect, the broadcaster is inclined to give none of the major party candidates any substantial amount of free time.

We have had one experience with a suspension of the equal opportunities provision in a Presidential election. That suspension, in 1960, made possible the broadcasting of the Nixon-Kennedy debates—without charge to the candidates and minus the obligation to provide free time to fringe candidates which at that time were some 14 in number.

In 1960 the national television networks provided over 39 hours of free broadcast time for candidates in the Presidential election while in 1964, 1968, and 1972 they afforded only 4½, 3, and 1 hours, respectively.

We have no reason to doubt that the 1960 experience would repeat itself if the equal opportunities requirement of section 315 were repealed as proposed by S. 372.

Further, we believe that an extension of this repeal with certain modifications to cover all election contests would produce similar beneficial results in local television coverage.

We have on several occasions in the past few years suggested an approach to a revision of the equal opportunities provision which I would like very briefly to bring again to your attention.

I have attached to my statement our recommended draft legislation and accompanying explanation which were previously submitted to this subcommittee.

It is basically a plan, applicable to all partisan elections, which would provide for the equal treatment of all major party candidates when free broadcast time is given one of them by the broadcaster.

A major party candidate is defined as one whose party has received some significant support in the preceding election or one who has been able to amass some significant petition signature support. The remaining candidates would not be entitled to the same amounts of free time, but fairness doctrine standards would be applicable.

There appears to be no real public benefit in insuring a candidate with little public support equal opportunity for broadcast time as against candidates with considerable public support, especially when experience has shown that the equal opportunity requirement has had the effect of discouraging broadcasters from providing free time to any candidates.

Our strong recommendation would be to revise section 315 along the lines of the above proposal. If Congress is not inclined to act in this general fashion, we would support a simple repeal of the equal opportunities provision as it applies to candidates for President and Vice President as provided for in S. 372.

Networks, of course, operate in a fishbowl. We have no doubt that they would act responsibly and fairly in according time to Presidential and Vice Presidential candidates.

They would, I suspect, be under considerable public pressure to give virtually equal treatment to the two major party candidates and to give some consideration to a third party candidate with significant popularity.

With regard to the individual licensee, we would be able to depend on fairness doctrine principles and the historical willingness of aggrieved candidates to file complaints. And the Commission would be

in an especially favorable position to process complaints quickly because only two offices would be involved.

This fairness standard would be applicable as well to any significant remaining candidates.

The second major feature of S. 372 would impose a 25 cents per person of voting age limitation on all campaign expenditures for nomination for or election to a Federal office.

The Commission has no expertise with respect to the wisdom of such a spending limit, and certainly whether to have a spending limit and its amount is a policy decision that Congress is in the best position to make.

In another few weeks, we will submit to the committee our political broadcast report for the 1972 elections, giving detailed data of candidate expenditures for broadcast time and amounts of free time provided.

As you know, Mr. Chairman, we made a concerted effort to have that report available at the beginning of these hearings but were unable to do so.

I trust this data, when available—and that should be in a couple of weeks—will prove helpful to the committee in its deliberations.

Assuming the desirability of some form of spending limitation, I might note in passing that we do prefer a spending limit applicable to all media rather than the provision in the Federal Election Campaign Act of 1971 which singles out broadcasting for special treatment; that is, no more than 60 percent of the authorized expenditure can be for broadcast time.

Aside from the fact that the present provision discriminates against broadcasters, it seems to me that a candidate should have the flexibility to spend money in a way that he feels will best advance his candidacy.

Senator PASTORE. The only way you can do that is by having an overall ceiling.

Mr. BURCH. Yes.

Senator PASTORE. That was our difficulty.

Mr. BURCH. Yes, Mr. Chairman.

Senator PASTORE. We had to fragment it in order to get a bill. There we had to choose where we thought the most money was being spent. It just turned out we let the floodgates open in a lot of other categories, and a lot more money was spent in the other categories than in the media.

That is one of the reasons why I was prompted, of course, to consider an overall ceiling—for that one reason.

Mr. BURCH. Sure. I would appreciate taking a few moments of your time to bring to the attention of the subcommittee a few of the vexing problems encountered by the Commission and its staff in interpreting the Federal Election Campaign Act of 1971 during the 1972 election period.

Even before final enactment of the Federal Election Campaign Act of 1971, members of the Commission staff held several conferences with members of the General Accounting Office staff to discuss implementation of the act.

On March 16, 1972, the Commission issued a public notice, in question-and-answer format, setting forth guidelines for use by broad

casters, CATV system operators, and candidates in interpreting the amendments to the Communications Act contained in the Federal Election Campaign Act.

These guidelines were widely distributed and represented our best judgment as to the requirements of the law and the intent of Congress.

Perhaps predictably, our public notice did not forestall a landslide of questions, most of which concerned either the lowest unit charge requirement of section 315(b), the definition of "reasonable access" under section 312, or the certification requirements of section 315(c).

I would like to make special mention of one interpretation contained in our guidelines, which gave rise to a number of questions from Members of Congress and the public; namely, our interpretation of "use" of a broadcast station by a legally qualified candidate entitling him to the lowest unit charge.

We have interpreted "use" in that situation to be the same "use" as would entitle an opposing candidate to equal opportunities under section 315(a) of the Communications Act.

Thus, in order for a candidate to be entitled to the lowest unit charge, there would have to be a use by the candidate involving personal participation; that is, use of his voice or image whether live or taped, including films and pictures.

It follows from our interpretation that there may well be instances where purchases of broadcast time to promote the candidacy of an individual for a public office will count against the candidate's spending limit under section 104 of the Campaign Financing Act—which applies to purchases of broadcast time by or on behalf of a candidate—but which will not entitle the purchaser to the lowest unit charge under section 315(b) of the Communications Act.

We have in the past ruled that a 60-second spot commercial where the candidate's picture appears in only a portion of the 60 seconds is a "use" for equal opportunities purposes.

During the 1972 elections, there were instances—in both sides of the aisle, I might state—where candidates had already produced commercials without their image or voice present in the segment only to find out that they were not entitled to the lowest unit charge for such an ad.

Candidates in some instances then doctored the ads by inserting their voice on the audio track for a small portion of the ad, or by having their picture flashed at the end of the ad for a few seconds.

Many stations, I understand, realized that it was a little ridiculous to have a candidate doctor an ad in such a fashion, and offered the lowest unit charge to the candidate regardless of how his segment was presented. But many others did not.

The Commission's interpretation of "use" for lowest unit charge purposes was based principally on language found in the House report—the only portion of the legislative history addressed directly to this subject. This is the House Committee on Interstate and Foreign Commerce report on H.R. 8628 (Report No. 92-565, October 13, 1971).

I have attached, as appendix B to my statement, my letter to Mr. Macdonald dated September 28, 1972, which I believe quite fully outlines our rationale for the interpretation made.

I might say that letter was in response to a very stern letter from a Member of Congress who suggested that the bureaucrats were foul-

ing up the whole electoral process by this silly interpretation they made. We simply pointed out that was the only interpretation we thought was possible under the legislative history.

The report goes on to point out that there might be instances where purchases of time will be chargeable against the candidate's spending limit but which would not entitle the candidate to the lowest unit rate.

By way of example, the report states that the above situation would occur "if supporters of a candidate purchase program time to promote his candidacy but he did not participate in the program."

The problem is that this example does not go far enough—for even if the candidate himself is the purchaser of broadcast time and he does not participate, he is not entitled under the rationale of the report to the lowest unit rate.

The Commission is of the opinion that if a candidate purchases time to promote his candidacy he ought to be able to utilize the time purchased as he sees fit and still be entitled to the lowest unit charge.

Should Congress agree, this could be accomplished by changing the language of section 315(b) of the Communications Act to read as follows:

(b) The charges made to any person who is a legally qualified candidate for any public office for the use of any broadcasting station by or on behalf of such legally qualified candidate in connection with his campaign for nomination for election, or election, to such office shall not exceed . . .

and retaining (b)(1) and (b)(2) in their present form.

Another possible approach would be to allow supporters of a candidate the lowest unit charge in those circumstances when the supporters must, under present law, obtain certification from the candidate that a proposed expenditure will not exceed the candidate's expenditure limitation. This could be accomplished by amending section 315(b) to read:

(b) The charges made for the use of any broadcasting station by or on behalf of any person . . .

And so on.

The other difficult area of interpretation I would like to discuss is what constitutes "reasonable access" or "reasonable amounts of time" within the meaning of section 312(a). Here we receive no help from the legislative history.

Under section 312(a), the willful or repeated failure by a broadcaster to allow reasonable access to, or to permit purchase of reasonable amounts of time for use of, his station by a legally qualified candidate for Federal office on behalf of his candidacy is a ground for revocation of license.

Broadcasters are naturally cautious about putting themselves in a situation where their license could possibly be revoked.

Consequently, during the 1972 elections, several broadcasters asked us to rule on whether the amount of time they had sold or given to a candidate was reasonable.

Fortunately, we have not yet received a large number of these problems or some of the really tough ones which could arise.

However, I would expect continuing and troublesome questions of interpretation under this provision. In attempting to ascertain what is reasonable under all the circumstances, a number of variables must

be considered—such as the office involved, the number of candidates for that office, the number of candidates for all offices within the station's service area, the station's overall coverage of the various campaigns, and questions of spot versus program time, prime time coverage, and so forth.

Fortunately, the Commission did not receive any reasonable access complaints during the 1972 elections from candidates in areas such as New York City or Chicago where a station's service area covers more than one State and where there were many candidates.

It would have been a very difficult problem if all candidates for Federal office in the area served by a New York City TV station had demanded "reasonable access" from that station—especially when you consider that the major VHF stations in New York City cover all or part of some 42 congressional districts in New York, Connecticut, and New Jersey.

It seems to me that in such a situation, the Commission must look primarily at the reasonableness of the station's actions under all the circumstances, and I would assume that a station's action would have to be clearly unreasonable before we would undertake to revoke a license.

As we noted in our primer on this subject, it was not intended that, during the closing days of a campaign, stations should be required to accommodate requests for political time to the exclusion of all or most other types of programming or advertising.

The Commission will not substitute its judgment for that of the licensee but, rather, will determine whether the licensee can be said to have acted reasonably and in good faith in fulfilling his obligations under this section.

I have given you just two examples of the difficult questions that confront us in this area. Mr. Chairman, we have decided these questions as best we can, sometimes on the basis of somewhat ambiguous statutory language and meager legislative history. We have brought our approach to these problems in the form of the 1972 Public Notice to the attention of Congress. If we have erred in some important construction, we would, of course, welcome congressional guidance.

As for the staff members who worked so long and hard on these difficult interpretative questions and the avalanche of equal time and fairness complaints, I believe that they should be commended for their efforts.

Mr. Chairman, that completes my statement. I will be happy to respond to your questions.

Senator PASTORE. Let me say this. We didn't draw the provision any differently than we did because when you begin to legislate on guidelines, and on standards, and on criteria, you know what you run up against. I think what we did was reasonable enough, and I think what you did was reasonable enough as well.

I know it is a difficult problem to say what is reasonable. You have to take everything into consideration. You couldn't cancel all other programs that the public might be interested in, just to accommodate all the candidates.

Yet, on the other hand, there is the question of giving sufficient time. In some instances, especially since there is a lowest unit rate, some licensees have been rather reluctant to give adequate time.

I would suppose that in cases of that kind, you would get some complaints. But, frankly, I think it has worked out pretty well.

Mr. BURCH. Yes. I think the more serious question at least from our point of view is, in effect, having to decide which campaign commercials are okay for the lowest unit charge, and those which are not.

I do think that a candidate is the best judge of how to run his own campaign, and if he doesn't want his face or picture to appear, why, maybe he has a good reason for that. I don't know.

I don't think the Commission should be called upon to determine that.

Senator PASTORE. We will take that under advisement. I think you have raised a point of merit.

Senator HART?

Senator HART. Thank you very much, Mr. Chairman. No questions.

Senator PASTORE. Senator Baker?

Senator BAKER. I have one question that was put to me by one of our colleagues. It is very delicate in nature and maybe it is not susceptible to legislation.

Senator Curtis of Nebraska brought to my attention in the course of the campaign that his opponent, appearing personally in a commercial that was taped for broadcast, made the remark that Senator Curtis was, in very unflattering terms, a "demented pigmy."

Carl Curtis is many things, but none of them fit that classification.

Even if it were so, I think that to be no contribution to the body politic in the techniques of campaigning.

Yet, according to information I have, the stations who were confronted with this dilemma felt that they were compelled to run that ad as a political advertisement.

Mr. BURCH. Yes, sir.

Senator BAKER. That seems to be an extraordinary situation. I am not sure how we approach that problem, but I am sure that we ought to try.

What suggestions do you have?

Mr. BURCH. You would have to amend section 315 of the act because the act specifically says that the licensee has no power of censorship over a political commercial where the candidate himself is speaking.

Senator BAKER. This was a case where the candidate himself was speaking. It is a very delicate matter. How can you handle it?

Mr. BURCH. We cannot handle it.

Senator BAKER. How can we handle it?

Mr. BURCH. You would have to amend section 315 and perhaps you would have to give the licensee some authority to censor political broadcasts, and I think this Congress would be terribly loath to do that.

You recall the situation you and I discussed on the racist business in Chattanooga?

Senator BAKER. Where there were commercial messages for political purposes directed to another State, in this case Georgia, that were rankly, overtly, odiously racist, and there was no way that that station could stop running those even though that station was afraid it might actually precipitate racial strife in the city of Chattanooga?

Mr. BURCH. I told you at that time, if that licensee made the honest judgment to put that material on the air, it would cause civil strife



and loss of life and property, that perhaps he could refuse to run the ads and then suffer the consequences of us second-guessing him.

Senator BAKER. But isn't that a terrible risk?

Mr. BURCH. Yes. But under the *New York Times v. Sullivan* case, the free and wide open debate that we seek and the fact that licensees may not censor, I think Senator Curtis simply has a dilemma without a remedy under the present law.

The only remedy that I can think of, would either be to allow some sort of a libel or slander suit, which is almost hopeless——

Senator PASTORE. He would run up against the Supreme Court ruling in the *New York Times* case. You can say most anything you want about an individual if he is in public office. We have to live with that. You remember the Barry Goldwater case.

Mr. BURCH. That is the only case that has been successful under the *New York Times v. Sullivan* standard of proof.

Senator BAKER. Mr. Chairman, I agree with you, it is a very, very difficult problem, and it may be as you say a dilemma without a solution, at least a legal or statutory solution.

I very much hope it is not entirely without solution and I would hope that you and the Commission would take account of whatever charges or complaints might be made against a station, for instance, for agreeing that material of that sort be run.

Mr. BURCH. They don't have any choice. They can't even see them. They are not allowed to ask the candidate what he is going to say.

Senator BAKER. You are in a tough spot and so are we. One of these days we will have to get together and talk about it.

Senator Curtis is not large, but he is not a pigmy, especially when I account for the fact that he and I and Senator Pastore are about the same size.

Senator PASTORE. Here are two men who can look one another straight in the eye.

Senator BAKER. The only other remarks I would make is in your statement——

Senator PASTORE. Before you get off of that, Howard, if there is a conspiracy between the licensee and the speaker to defame someone in other words, if encouragement is made by the licensee to an individual to say thus and so about somebody else, wouldn't that be grounds for refusing a renewal?

Mr. BURCH. Well, I think if in fact you can prove such a thing, that obviously it would go to the qualifications of the man to be a public trustee.

Senator PASTORE. Because in the general run of cases, I think the licensee doesn't like this any more than we do.

Mr. BURCH. No, he doesn't.

Senator PASTORE. He has to tolerate it because maybe he has no alternative. There may be a case or two where a licensee is piqued against that individual. If he encourages anyone else to come and use defamatory statements there may not be a legal remedy, but the big question arises whether or not your Commission would take that under consideration on a license renewal.

Mr. BURCH. I think we would have to, Senator, because we have raised questions about licensees who simply try to elect someone, not try to unelect someone, but simply throw their weight behind one

candidate or the other and utilize their facilities for that purpose, and certainly if a licensee of ours entered into a conspiracy to try to defeat somebody by slander and libel, I think that would weigh very strongly against his qualifications to be a public trustee.

Senator BAKER. Mr. Chairman, my only other remark is I fully concur with your statement, with respect to utilization of time purchased by a candidate.

I think that is a problem. I think it is a narrowness which we did not have in mind when we considered it, and I would hope that we can go forward according to the suggestion that you have made.

Thank you, Mr. Chairman.

Senator PASTORE. Senator Cannon?

Senator CANNON. I would just say on that point, it seems to me in our discussions that we considered whatever the use happened to be. Whether there was actually a picture on there, or the man's own voice talking, if it was political advertising on the station. I believe in our committee discussions we considered that that would be the type of time that would be entitled to the lowest possible rate.

I recognize your problem when you say that your only legislative history was to go back to the House report.

Mr. BURCH. And "use" is a term of art under section 315, and one that we have interpreted a number of times, and by the selection of the word "use" it implied certain legal consequences. We saw no way to get out of it.

Senator CANNON. On the point that Senator Baker raised, I would simply say that these cases are obviously quite few and far between. I think that we would run into a much graver danger if we were to try to adopt legislation to provide the advance submission of texts—and there is the question of whether we legally could do this anyway—or provide any type of censorship for the station.

I know that you have seen it occur where things of this sort have been left right to the very last—immediately before the election, and with no advance submission of text. One only knows what is going to be said after it has been said, and then there is not even time to get back on the air and even respond in some of those cases.

Mr. BURCH. Yes; it is a very difficult situation.

Senator CANNON. It has happened to me on occasion.

Mr. BURCH. As you know, before the amendments to section 315, many broadcasters did look at political material, and I recall in Arizona a number of times getting stuff blue-penciled by licensees. That was before the amendments to the act. At that time they felt they had libel responsibilities which they now do not.

Senator CANNON. Before the amendments to the act, they used to require the submission of the advance text, and then go to their lawyers to find out if there was anything libelous in it, as I recall.

Thank you very much. I think you have made a very helpful statement.

Senator PASTORE. There is a memorandum that was sent to us on this very subject, and I ask at this time that it be made part of the record.

Mr. BURCH. Is that from the General Counsel?

Senator PASTORE. Yes.

Mr. BURCH. There is one difference, Senator. That is a statement by a supporter rather than a candidate. It is a little different legal concept if a defamatory statement is made by a supporter as opposed to a candidate.

Thank you very much.

[The material referred to follows:]

MARCH 6, 1973.

**MEMORANDUM OF THE GENERAL COUNSEL, FEDERAL COMMUNICATIONS COMMISSION,  
CONCERNING REMEDIES FOR BROADCAST DEFAMATION OF POLITICAL CANDIDATES  
BY SPOKESMEN FOR OPPOSING CANDIDATES**

**INTRODUCTION**

This memorandum is concerned with the following question: When a spokesman for candidate A makes a false, misleading or defamatory remark in reference to opposing candidate B in a paid political broadcast, what remedies are available to candidate B. The remedies discussed will be (1) a civil action for defamation against the spokesman, (2) a civil action for defamation against the station over which the remarks were broadcast, (3) an injunction against future broadcast of the statement, and (4) possible administrative relief available through the Federal Communications Commission against the station over which the remarks were broadcast.

Candidate B can expect to recover damages in a defamation action against candidate A's spokesman, or the station over which the remarks were broadcast, only if candidate B can satisfy the rigid showing of "actual malice" required by *New York Times v. Sullivan*, 376 U.S. 254 (1964). Due to constitutional safeguards against prior restraint, the probability of candidate B obtaining an administrative cease and desist order or a court injunction prohibiting the broadcast of the defamatory statements is quite remote. The most practical remedy available for candidate B would appear to be a request under the Federal Communications Commission's quasi-equal opportunities doctrine to purchase comparable time from the station which broadcast the defamatory statements in order to present the opposing viewpoint with regard to such statements.

**I. DEFAMATION ACTION AGAINST THE SPOKESMAN**

A candidate cannot recover damages in a civil suit against a spokesman for an opposing candidate for defamatory remarks made in a political broadcast unless he can prove that the spokesman's statement was made with "actual malice."

The landmark case in this area is *New York Times v. Sullivan*, 376 U.S. 254 (1964), where the police commissioner of Montgomery, Alabama, brought a civil libel action against the newspaper's publisher for an advertisement which it published. The plaintiff alleged that he had been libeled by statements in the advertisement linking him to an "unprecedented wave of terror" designed to deny the constitutional rights of Southern Negro students engaged in widespread non-violent demonstrations. In striking down the Alabama court's judgment for the plaintiff, the Supreme Court established the rule that the federal constitutional guaranty of freedom of speech and press prohibits a public official from recovering damages for a defamatory falsehood relating to his official conduct unless he proves that the statement was made with "actual malice"—that is, with knowledge that it was false or with reckless disregard of whether it was false or not. The decision recognized the conflict between the First Amendment guarantee of freedom of speech on the one hand, and state defamation laws designed to secure protection of the individual's reputation on the other. It established stringent standards for the imposition of liability with regard to defamation of public officials in deference to a "profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide open, and

<sup>1</sup>There is a split of authority among the states as to whether defamation by radio or television constitutes libel, slander or falls into some separate category. For purposes of this discussion the distinction is immaterial, and the types of defamation will be referred to interchangeably.

that may well include vehement, caustic and sometimes unpleasantly sharp attacks on government and public officials." (376 U.S. at 270.) The Court feared that a rule compelling the critic of official conduct to guarantee the truth of all his factual assertions on pain of libel judgments, virtually unlimited in amount, would lead to "self-censorship." (376 U.S. at 270.)

In *Garrison v. State of Louisiana*, the Court extended the *New York Times* rule to criminal proceedings. In striking down a state statute which permitted punishment for false statements about public officials made with ill will, the Court stated that "erroneous statement is inevitable in free debate, and . . . it must be protected if the freedoms of expression are to have the breathing space they need to survive." (379 U.S. 64, 74 (1964)).

It is also clear that the *New York Times* rule applies to candidates for public office. Although in the *New York Times* decision the Court declined to determine how far down into the lower ranks of government employees the "public official" test would apply, or otherwise to specify categories of persons who would or would not be included within the rule, the Court did cite several state court cases where a similar standard had been applied to candidates for public office, and quoted the Kansas Supreme Court in its characterization of a similar rule: "This privilege extends to a great variety of subjects and includes matters of public concern, public men, and candidates for office."<sup>2</sup>

And in *Curtis Publishing Co. v. Butts*, 388 U.S. 130 (1967), Wally Butts, a well known figure in football coaching ranks, brought a libel action against the publishers of the *Saturday Evening Post* based on an article which charged him with having "fixed" a football game between the University of Georgia and the University of Alabama. At the time of the article plaintiff was the athletic director of the University of Georgia, but was employed by a private corporation and not by the state itself. In the decision, all of the members of the Court agreed that the basic considerations underlying the First Amendment require that some limitation be placed on the application of state libel laws to "public figures" as well as "public officials," and a majority held that Butts was a public figure for First Amendment purposes.

In *Monitor Patriot Co. v. Roy*, 401 U.S. 265 (1971), the plaintiff, a non-incumbent senate candidate in New Hampshire's Democratic primary election, brought a libel action based on a newspaper publication characterizing him as a "former small-time bootlegger." The Court considered whether it might be preferable to categorize plaintiff as a "public figure" rather than a "public official," but concluded that (401 U.S. at 271-2):

"[T]he question is of no importance so far as the standard of liability in this case is concerned, for it is abundantly clear that, whichever term is applied, publication concerning candidates must be accorded at least as much protection under the First and Fourteenth Amendments as those concerning occupants of public office. That *New York Times* itself was intended to apply to candidates, in spite of the more restrictive 'public official' terminology, is readily apparent from that opinion's text and citation to case law. [Footnote omitted.] And if it be conceded that the First Amendment was 'fashioned to assure the unfettered interchange of ideas for the bringing about of political and social changes desired by the people', [citation omitted] then it can hardly be doubted that the constitutional guarantee has its fullest and most urgent application precisely to the conduct of campaigning for political office."

The application of the "reckless disregard" requirement of the "actual malice" standard will depend upon the facts of the particular situation. In the *New York Times* case, which involved the newspaper publishing the advertisement rather than its authors, the following facts were held constitutionally sufficient to support a finding of "actual malice": (1) a statement by the secretary of the newspaper that he thought that the advertisement was substantially correct and thus ignored the falsity of the advertisement where his opinion was a least a reasonable one, and here was no evidence to impeach his good faith; (2) the newspaper's failure to retract upon plaintiff's demand, even though the newspaper later retracted upon the demand of the governor of Alabama; and (3) the publication of the advertisement without the newspaper's checking its accuracy against the news stories in its own files, where the record showed that the employees of the newspaper having responsibility for the publication of the advertisement relied upon their knowledge of the good reputation of many of the

<sup>2</sup> 376 U.S. at 281-82, quoting *Coleman v. MacLennan*, 78 Kan 711, 738, 90 P. 261, 265 (1908).

signers of the advertisement, and upon a letter from a person known to them as a responsible individual certifying that the use of the names of the signers was authorized. The Court held that evidence supporting a finding of negligence in failing to discover the misstatements in the advertisement was constitutionally insufficient to show the "reckless disregard" that is required to support a finding of "actual malice".

Inevitably, the outer limits of this standard will be marked out through case-by-case adjudication. *St. Amant v. Thompson*, 390 U.S. 727, 730-31 (1968). However, a review of some of the cases decided under the *New York Times* rule provides some guidelines. The leading case to date in which a candidate for public office was able to meet the "actual malice" standard of *New York Times* is *Goldwater v. Ginzburg*, 414 F.2d 824 (C.A. 2, 1969), cert. den., 396 U.S. 1049 (1969). The court upheld a jury award of \$1.00 compensatory damages and \$75,000 punitive damages to 1964 Presidential candidate Barry Goldwater against Ralph Ginzburg and *Fact* Magazine where a "Goldwater issue" of *Fact* Magazine had accused Senator Goldwater of mental incapacity sufficient to render him unfit for the office of President. The court ruled that Senator Goldwater had presented sufficient evidence "from which a jury might reasonably find a premeditated and preconceived plan to malign the Senator's character" (414 F.2d at 837). In dismissing Ginzburg's defense that he had relied upon newspaper articles, books, campaign literature, and the accurate reprinting of others' letters, the court held that repetition of another's words does not release one of responsibility if the reporter knows that the words are false or inherently improbable, or if there are obvious reasons to doubt the veracity of the person quoted. The court additionally found that Ginzburg added certain innuendoes, and altered and took statements out of context in order to support his predetermined position.

However, many plaintiffs have been unable to meet the "actual malice" standard of *New York Times*. In *Berkley Newspapers Corp. v. Hanks*, 380 U.S. 81 (1965), the Supreme Court reversed a West Virginia libel judgment in favor of a candidate for court clerk against three newspaper editors highly critical of his official conduct. The Court ruled that the proof presented to show the "actual malice" of the defendants lacked the convincing clarity *New York Times* demands where the only evidence bearing on the question of malice was an editorial statement, "that perhaps the plaintiff's blustering threats were able to intimidate the lady," made in reference to the plaintiff and another female public official who were both opposed to the flouridation of the local water supply. The Court held that there was insufficient evidence on the record to present a jury question as to whether any failure on the part of the defendant to make a prior investigation before publication of the statement constituted a "reckless disregard of the statement's truth or falsity."

*Time, Inc. v. Pape*, 401 U.S. 279 (1971), involved a policeman's suit against *Time* magazine for libel with regard to a story which summarized the contents of a Civil Rights Commission report on police brutality without indicating that statements referring to the plaintiff were merely allegations rather than findings of the Commission. Although the omission of the word "alleged" was admittedly intentional, the Court held that *Time's* adoption of one of a number of possible interpretations of an ambiguous document was, while perhaps erroneous, not enough to create a jury issue of malice under *New York Times*.

The case which has most fully explored what constitutes "reckless disregard" is *St. Amant v. Thompson*, 390 U.S. 727 (1968). The Louisiana Supreme Court had sustained a deputy sheriff's judgment for damages in a defamation action against a candidate for public office who had made a televised speech in which he read a series of responses he had received from a union member which indicated that the plaintiff, his opponent, had accepted illegal payments from a union official. The Louisiana Supreme Court based its finding of "reckless disregard" and, thus, "actual malice," on: (1) the defendant's lack of personal knowledge of the plaintiff's activities; (2) the defendant's sole reliance upon the union member's response, although the record was silent as to his reputation for veracity; and (3) the defendant's failure to verify the information with those in the union office who might have known the facts. In reversing the judgment, the Supreme Court held that reckless conduct is not measured by whether a reasonably prudent man would have investigated before publishing. The Court ruled that the evidence here was not sufficient to permit the conclusion that the defendant in fact entertained "serious doubts" as to the truth of his publication. Only when such "serious doubts" can be proven can "reckless disregard" for

<sup>1</sup> See 90 ALR 8d 908 (1968).

truth or falsity be shown, and "actual malice" thereby established. The Court further observed that "neither lies nor false communications serve the ends of the First Amendment, and no one suggests their desirability or further proliferation. But to insure the ascertainment and publication of truth about public affairs, it is essential that the First Amendment protect some erroneous publications as well as true ones." (389 U.S. at 782.)

The *St. Amant* decision is significant here in two further respects: first, it marks the first time the Supreme Court applied the *New York Times* rule to broadcast defamation, thus indicating that the rule applies equally to broadcasts as well as published defamation; and second, it applied the *New York Times* rule to a defendant who was a candidate for public office, thus indicating that a candidate who, with "actual malice," makes a defamatory falsehood relating to the official conduct of an opposing candidate may be held liable for defamation, but only on the same terms as other persons. It seems clear that if a candidate for public office can be held responsible for broadcast defamation made with actual malice, a candidate's spokesman will be in the same position.<sup>4</sup>

The Supreme Court has also applied the *New York Times* standard in a suit against a radio station arising out of its own newscasts. Thus, in *Rosenbloom v. Metromedia, Inc.*, 403 U.S. 29 (1971), the defendant radio station, in reliance on police reports, broadcast several news stories regarding plaintiff's arrest for possession of obscene literature. Following his acquittal of criminal obscenity charges, the plaintiff magazine distributor brought a civil action for defamation against the radio station based on the broadcasts. The Supreme Court held that such an action "may be sustained only upon clear and convincing proof that the defamatory falsehood was published with knowledge that it was false or with reckless disregard of whether it was false or not."

It is also noteworthy that while the Court in the *New York Times* case held that the allegations in the advertisement clearly related to the plaintiff's "official conduct," and concluded that it need not at that time further determine the boundaries of the concept, it has since made clear that the *New York Times* holding applies to defamatory statements involving non-official conduct. In *Monitor Patriot Co. v. Roy*, 401 U.S. 265 (1971), the defendant had raised the defense that his newspaper's characterization of the plaintiff, a non-incumbent senate candidate in the state's Democratic primary election, as a "former small time bootlegger" did not relate to this official conduct. The Supreme Court held that cases decided subsequent to the *New York Times* case "have made it clear that the applicability of this basic approach [*New York Times* doctrine] is not limited to those in public office, or to the performance of official acts." (401 U.S. at 271.) The Court has thus reformulated the "official conduct" criterion to include "anything which might touch on an official's fitness for office," (401 U.S. at 274.) The Court thus held that, as a matter of constitutional law, a charge of criminal conduct, no matter how remote in time or place, can never be irrelevant to a candidate's fitness for office. The Court specifically left undecided the question as to whether or not there may be some area of defamation of the candidate's purely "personal conduct" to which the *New York Times* rule would not apply. (401 U.S. at 275.) However, it observed that "[a]ny test adequate to safeguard First Amendment guarantees in this area must go far beyond the customary meaning of the phrase 'official conduct'. Given the realities of our political life, it is by no means easy to see what statements about a candidate might be altogether without relevance to his fitness for the office he seeks. The clash of reputations is a staple of election campaigns, and damage to reputation is, of course, the essence of libel." (401 U.S. at 274-75.)

In a companion case, the Court ruled that a newspaper charge that a candidate for the office of county tax assessor had been "indicted for perjury in a

<sup>4</sup>It also seems clear that the cases giving an absolute privilege to executive officials of the Federal government for libelous statements made while acting in their official line of duty, even when malice is alleged, see *Barr v. Matteo*, 360 U.S. 564 (1959), are not relevant to political broadcasts during a political campaign. For paid political broadcasts do not come within the scope of official duties. In *Barr v. Matteo*, the Supreme Court extended the Constitutional (Article I, Section 6) absolute privilege of members of both Houses of Congress against defamation in respect to any speech, debate, vote, report or action done in session to cover a press release issued by the acting director of the Office of Rent Stabilization announcing his intention to suspend two employees of the agency for conduct for which the agency had been criticized.

In support of the *New York Times* rule the Supreme Court pointed out in that case that "[i]f it would give public servants an unjustified preference over the public they serve, if critics of official conduct did not have a fair equivalent of the immunity granted to the officials themselves," 376 U.S. at 252-53.

civil rights suit" was relevant to his fitness for office and he could not recover damages without proving "actual malice." *Ocala Star Banner Co. v. Dameron*, 401 U.S. 293, 300-01 (1971).

In summary, a candidate can recover damages in a civil suit against a spokesman for an opposing candidate for defamatory remarks relating to "official conduct" made in a paid political broadcast only where he can prove that the spokesman's statement was made with "actual malice,"—that is, with knowledge that it was false, or with reckless disregard of whether it was false or not.

## II. DEFAMATION ACTION AGAINST THE BROADCAST STATION

The result here is essentially the same as in the case of a suit against the political spokesman making the defamatory remarks, except that it will of course be more difficult to prove malice against a station carrying a paid political broadcast than against the spokesman himself. See *New York Times v. Sullivan*, discussed in full *supra*.

It is important to note on this question that while Section 315(a) of the Communications Act of 1934, as amended, 47 U.S.C. Section 315(a), has been interpreted as protecting broadcast stations from liability for defamatory statements made by candidates for public office, *Farmers Educational and Cooperative Union of America v. WDAY*, 360 U.S. 525 (1950), this protection will not extend to defamation by spokesmen for candidates. The freedom from liability for candidates' statements arises out of the Congressional prohibition in section 315 of censorship by the broadcaster of the candidate's use of his facilities. No such prohibition against censorship is applicable to the use of a station by a candidate's spokesman,<sup>1</sup> and the station accordingly could not claim a freedom from all liability for the spokesman's statements. So far as the station is concerned, the spokesman for a political candidate is on an equal footing with any other person who requests broadcast time from a station licensee. The station may censor his remarks and has no exemption from liability.<sup>2</sup>

There is a subsidiary question of the effect on a station's liability if the defamed candidate notifies the station of the falsity of the defamatory statement, and requests that future broadcasts of the statement be eliminated. In the *New York Times* case, failure to retract the defamatory statement complained of was held to be inadequate proof of "actual malice." (376 U.S. at 286.) Whether or not a failure to retract may ever constitute such evidence is a question which was left open by the decision. Even if failure to retract is eventually found not to constitute evidence of "actual malice" in any situation, it is conceivable that a distinction could be made between failure to retract and failure to comply with a request to refrain from further broadcasts of a defamatory statement.

## III. INJUNCTIVE RELIEF AGAINST FUTURE BROADCASTS OF THE STATEMENT

It is a general principle of the law that in the absence of statutory authority and except in special circumstances which are not applicable here,<sup>3</sup> a court of equity will not enjoin a libel or slander. Equity has no jurisdiction to enjoin

<sup>1</sup>In *Fells v. Westinghouse Radio Stations*, 186 F. 2d 1 (C.A. 3, 1950), the plaintiff, a Democratic candidate for Philadelphia city treasurer, brought a civil action for damages against radio stations which broadcast two political speeches by a spokesman for the opposing candidate who had alleged that plaintiff was supported, and more or less controlled, by a communist group. The radio stations alleged that the no censorship provision of section 315 must be extended to include a use not only by a candidate personally but his authorized spokesman as well. Under this interpretation the statute would prohibit censorship of the speeches, and the radio stations would thus be without fault in broadcasting them. The court ruled, however, that the section's legislative history clearly indicated that the no censorship provision applies only to the use of a radio station by the candidate himself, and not to such use by his authorized spokesman. Thus, the section did not prohibit the stations from censoring the spokesman's speeches, consequently, their defense based upon Section 315 was rejected. Because the *Fells* case was decided prior to the *New York Times* decision, the defendant radio stations were held to a negligence standard of reasonable care.

<sup>2</sup>Section 3(h) of the Communications Act 47 U.S.C. 153(h), makes it clear that a broadcaster is not a common carrier and therefore is not obliged to accept any particular program matter which may be offered to him for broadcast, *George F. Mahoney*, 40 F.C.C. 336 (1962). Furthermore, the Commission has stated on many occasions that the broadcaster can censor and is responsible for all material broadcast over his facilities (except the broadcasts of legally qualified candidates). See e.g., *Judy Collins*, 24 F.C.C. 2d 741 (1970).

<sup>3</sup>There are a very few, mostly older, cases where an injunction against defamatory statements has been granted as an extraordinary remedy, see *Denton v. McGranery*, 201 F. 2d 711 (C.A.D.C. 1953) (breach of trust or contract); *Montgomery Ward Co. v. United Employees*, 400 Ill. 38, 79 N.E. 2d 46 (1948) (where property right is affected after plaintiff's right established in an action at law); and *Flint v. Hutchinson Smoke Burner Co.*, 110 Mo. 402, 19 S.W. 504 (1892) (slander of title to patent).

crimes and libels, the remedy being an action at law for damages or a criminal prosecution. *Citizens Light, Heat and Powder Co. v. Montgomery Light and Water Power Co.*, 171 F. 553 (M.D. Ala., 1909), and the constitutional guarantee of freedom of speech in any event prohibits the courts from the application of prior restraints. *Konigsberg v. Time, Inc.*, 288 F. Supp. 980 (S.D.N.Y. 1968). The general rule has been held not to be affected by the fact that a judgment could not be collected against the defendant. *Willis v. O'Connell*, 231 F. 1004 (S.D. Ala. 1916). It has also been held that the existence of malice in the defamatory statement does nothing to confer jurisdiction upon the court. *Kidd v. Horry*, 26 F. 773 (E.D. Pa. 1886).

Even if a statute were enacted by Congress to authorize injunctive relief against defamatory statements about candidates for office it would undoubtedly be subject to strict constitutional scrutiny. The Supreme Court has historically viewed with disfavor statutes which provide for prior restraint of speech, especially where less restrictive alternative means to avoid the evil are available. See e.g., *Near v. Minnesota*, 283 U.S. 697 (1931).

As a general matter, the Supreme Court has recognized a distinction between those statutes which primarily regulate conduct and only incidentally affect speech and those statutes which primarily affect the right of expression. With respect to the former, the Court has exhibited a willingness to balance the need to regulate particular conduct in the interest of public order and the degree of impact on speech. *Communication Ass'n v. Douds*, 339 U.S. 882, 890 (1960). Cases where the former was found to outweigh the latter include holdings that sound trucks may be prohibited from certain public places under proper standards, *Kovacs v. Cooper*, 338 U.S. 77 (1944), that a municipality may limit certain types of commercial door-to-door canvassing, *Breard v. Alexandria*, 341 U.S. 622 (1951), and that the requirements of absolute fairness in the conduct of a trial may warrant the exclusion of television cameras from the courtroom, *Bates v. Texas*, 381 U.S. 532 (1965).

However, as would be the case with respect to a statute drawn to prevent the evil of broadcast defamation of candidates, statutes directed specifically at the content of speech are governed by more stringent criteria. In a long series of cases the Supreme Court has arrived at a general approach which permits government to limit speech only where it poses a "clear and present danger" of bringing about a substantive evil which the government has a sufficiently strong interest in preventing. See e.g., *Terminiello v. Chicago*, 337 U.S. 1 (1949); *Bridges v. California*, 314 U.S. 352 (1941); and *Schenck v. United States*, 249 U.S. 47 (1919).

In conjunction with the "clear and present danger" test, the Court sometimes applies the "alternative means" test in deciding upon the constitutionality of a statute in cases of this type. Simply stated, this test indicates that a statute which deeply infringes First Amendment rights is not valid where alternative, less restrictive forms of regulation are available to achieve the desired end. *Sherbert v. Verner*, 374 U.S. 898 (1963); *Shelton v. Tucker*, 364 U.S. 479, 488 (1960). In the context of the present situation, it would appear that alternative means other than prior restraint are available. Such alternatives include a civil action for damages, as described in sections I and II herein. Another less restrictive means to vindicate the maligned candidate would be by means of an adequate opportunity to reply to the defamatory statements.

It appears reasonable to believe, however, that any statute providing for prior restraint of political speech would be likely to fall on constitutional grounds, for the holding of *New York Times v. Sullivan* and its progeny would be seriously undercut by such legislation. And see *Near v. Minnesota*, 283 U.S. 697 (1931).

#### IV. POSSIBLE ADMINISTRATIVE RELIEF AVAILABLE THROUGH THE FEDERAL COMMUNICATIONS COMMISSION AGAINST THE STATION OVER WHICH THE REMARKS WERE BROADCAST

Where a spokesman for candidate A defames candidate B in a paid political broadcast, the station has a responsibility to sell substantially the same amount of time to a spokesman for candidate B under the Commission's so-called quasi-equal time doctrine.<sup>9</sup>

<sup>9</sup>The Commission in its administrative rulemaking and opinions and orders is, of course, subject to the same strict constitutional safeguards against prior restraint of defamatory statements about public figures as detailed in section III. In addition to the constitutional guarantee of free speech, section 326 of the Communications Act, 47 U.S.C. 326, also prohibits the Commission from censoring any radio or television broadcasts, or from promulgating any regulation which interferes with the right of free speech over broadcast facilities.



In its *Letter to Nicholas Zapple*, 23 F.C.C. 2d 707 (1970), the Commission ruled that where a broadcast station sells time to a spokesman for candidate A, and such broadcast time is used to criticize candidate B, or his position on campaign issues, that "there has clearly been the presentation of one side of a controversial issue of public importance."

It is equally clear that spokesmen for or supporters of opposing candidate B are not only appropriate, but the logical spokesmen for presenting contrasting views. Therefore, barring unusual circumstances, it would not be reasonable for a licensee to refuse to sell time to spokesmen for or supporters of candidate B comparable to that previously bought on behalf of candidate A.<sup>7</sup> Thus, in the situation presented here, although the *Zapple* ruling was not directed to defamatory statements, it does provide some remedy to candidate B, for if candidate B's spokesman offers to buy comparable time to respond to the defamatory remarks and is refused, he may request the Commission to require the licensee to sell him such time under the *Zapple* ruling.

The so-called quasi-equal opportunities doctrine set forth in the *Zapple* ruling is neither traditional fairness nor traditional equal opportunities, but rather borrows a little from each. Thus, where the licensee has sold a specific amount of time to a spokesman for candidate A, it would be unreasonable for the licensee to refuse to sell a roughly comparable amount of time to a spokesman for candidate B. This varies slightly from the mathematical precision required by the equal opportunities approach.<sup>8</sup> On the other hand, although the Commission has interpreted traditional fairness to require that the public's right to be informed not be defeated by the licensee's inability to obtain paid sponsorship of a contrasting viewpoint, even where the initial presentation was made under paid sponsorship, *Cullman Broadcasting Co.*, 40 F.C.C. 2d 576 (1963), it has declined to apply the *Cullman* approach to political campaigns, holding, under the approach adopted by Congress in Section 315,<sup>9</sup> that free time need be afforded to spokesmen for candidate B only where spokesmen for candidate A received free time. (23 F.C.C. 2d at 708).

Finally, there are two additional refinements of the *Zapple* ruling which may be applicable to any particular case. One is that for all practical purposes, the application of quasi-equal opportunities is confined to campaign periods. The other is that *Zapple* does not extend quasi-equal opportunities to all candidates and parties, including those of a fringe nature, but rather emphasizes comparable time for the spokesmen of major parties and candidates. *First Report on the Handling of Public Issues under the Fairness Doctrine*, 38 F.C.C. 2d 40, 50 (1972).

The Commission has consistently refused to go beyond this general requirement in this area. As noted in footnote 10, *supra*, the personal attack rules' requirement of an opportunity to respond do not apply to personal attack in the political arena. And, in October, 1970, the Commission, by its Broadcast Bureau, denied the request of the Task Force for Peace (TFP) that the Commission issue a declaratory ruling that any station accepting "spot ads during the last two weeks of an election campaign which employ inflammatory, fraudulent, or libelous claims (or in any way attack a candidate's integrity, character or patriotism) against a candidate" must provide advance notice to the attacked candidate or his spokesman in order to allow time to prepare an "adequate reply"; and afford time under the personal attack provision of the fairness doctrine for an "immediate response" by an appropriate spokesman for the candidate who is opposed in the ads. The Commission's Broadcast Bureau, in denying the TFP request for a declaratory ruling, stated that the Commission's rules and decisions relating to the broadcast of controversial issues should be applied to specific situations as they arise rather than suppositional future events, and, that in the absence of the specific facts of a particular case, the Commission cannot make a determination as to whether a licensee has acted responsibly. *Harold Wilens*, 20 F.C.C. 2d 173 (1970).

In 1960, the Anti-Defamation League of B'nai B'rith petitioned to deny the licensee renewal application of station KTYM on the grounds that the station had broadcast offensive comments concerning persons of the Jewish faith. The Commission denied the petition on the grounds that, while it did not approve of

<sup>7</sup> *First Report on the Handling of Public Issues under the Fairness Doctrine*, 38 F.C.C. 2d 40, 40 (1972).

<sup>8</sup> Under a similar approach of not intruding into the political arena, the Commission has made inapplicable to personal attacks by candidates or their spokesmen the normal requirement for a reasonable opportunity to reply to personal attacks made in the course of discussion of a controversial issue of public importance. See, e.g., Section 73.125 of the Rules, 47 CFR 73.125.

anti-Semitic material, its function was not to judge the wisdom of broadcast commentary but rather to provide the opportunity for balance by requiring the presentation of opposing viewpoints on controversial issues of public importance. *Anti-Defamation League of B'nai B'rith*, 4 F.C.C. 2d 190 (1966), *reconsideration denied*, 6 F.C.C. 2d 385 (1967). In upholding the Commission's position, the court of appeals stated that "all the government can properly do, consistent with the right of free speech, is to demand that the opportunity be kept open for the presentation of all viewpoints." *Anti-Defamation League of B'nai B'rith v. F.C.C.*, 403 F. 2d 169, 172 (1968), *cert. denied*, 394 U.S. 930 (1969).

Finally, in October, 1972, Governor Ronald Reagan requested that the Commission remind all its California licensees of their obligations under the fairness doctrine with regard to alleged false and deceptive advertising in support of Proposition 13 on the California ballot. The Commission denied Governor Reagan's request pointing out that intervention by the Commission regarding specific material being broadcast for or against a proposition, even to the limited degree urged, could create the impression that the Commission was advocating a particular viewpoint, or attempting to judge the truth or falsity of material being broadcast on either side of a currently controversial issue—a position which would be inappropriate for a government licensing agency. *Letter to Governor Ronald Reagan*, 38 F.C.C. 2d 314 (1972).

These examples of Commission refusal to go beyond the limitations it has set for itself are given here not because they are directly in point to the question being addressed, but because they provide a somewhat wider look at Commission policy. This policy of course includes the general fairness doctrine, *see Red Lion Broadcasting Co. v. F.C.C.*, 395 U.S. 367 (1969), which requires that a reasonable opportunity be afforded to discuss conflicting viewpoints on controversial issues of public importance, including political campaigns, and the recently enacted requirement that stations allow "reasonable access" on the purchase of "reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy." (Section 312(a), as amended by the Campaign Communications Reform Act, Public Law 92-225, 86 Stat. 3.) But it does not provide a specific remedy for defamation of a candidate by another candidate's supporters.

#### CONCLUSION

In conclusion, candidate B can expect to recover damages in a defamation action against candidate A's spokesman, or the station which broadcast the remarks, only if candidate B can satisfy the rigid showing of "actual malice" required by *New York Times v. Sullivan*. Due to constitutional safeguards against prior restraint, there is little likelihood that candidate B could obtain an injunction prohibiting the broadcast of defamatory statements. One other remedy available for the problem presented in this memorandum would be a request under the Commission's quasi-equal opportunities doctrine by a spokesman for candidate B to purchase comparable time from the station which broadcast the defamatory statements in order to present the opposing viewpoint with regard to such statements.

JOHN W. PETTIT,  
General Counsel.

FEBRUARY 15, 1973.

#### MEMORANDUM

To: Howard L. Kitzmiller, Assoc. General Counsel, Legislation.  
From: Wallace Johnson, Chief, Broadcast Bureau.  
Subject: Inquiry re number of Sponsorship ID announcements and paid political broadcast time.

A question has arisen as to the number of sponsorship identification announcements required by the Commission's rules for paid political broadcasts of varying lengths and whether the time required for such announcement[s] comes out of the time purchased for the political broadcast or out of station time.

With respect to paid political broadcast time, the Commission's rules, as interpreted and applied by the staff, require only a single sponsorship identification announcement regardless of the length of the political broadcast. The applicable rule provisions for AM, FM, and television, respectively, are §§ 73.119(a), 73.289(a), and 73.654(a). Such announcement may be made at any time during the political broadcast.

While Commission rules are silent on the subject, it is industry practice that the required political broadcast sponsorship identification announcement is included within the time segment purchased for the political broadcast.

Possible confusion as to the number of such announcements required arises from the language of §§ 73.119(d), 73.280(d), and 73.654(d) which provide:

(d) In the case of any political program or any program involving the discussion of public controversial issues for which any records, transcriptions, talent, scripts, or other material or services of any kind are furnished, either directly or indirectly, to a station as an inducement to the broadcasting of such program, an announcement shall be made both at the beginning and conclusion of such program on which such material or services are used that such records, transcriptions, talent, scripts, or other material or services have been furnished to such station in connection with the broadcasting of such program: *Provided, however,* That only one such announcement need be made in the case of any such program of 5 minutes' duration or less, either at the beginning or conclusion of the program.

It was intended that subsection (d) apply—not to paid programs—but only where "records, transcriptions, talent, scripts, or other material or services" are furnished as an inducement to the broadcasting of a political program or a program involving the discussion of public controversial issues. In that situation, only one announcement, either at the beginning or end of the program, is required if the program duration is 5 minutes or less but where the program is more than 5 minutes announcements are required both at the beginning and end of the programs. In our review of the broadcast rules, we will consider possible clarifying language for this section.

**Senator PASTORE.** Commissioner Nicholas Johnson has submitted a statement, which at this time will be made a part of the record.  
(The statement follows:)

**STATEMENT OF HON. NICHOLAS JOHNSON, COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION**

There are some differences between Chairman Dean Burch and myself regarding the legislation before you. I will state them briefly.

(1) Whatever may have been our experience with the Presidency, I do not believe that "history shows" that Section 315 is what has inhibited broadcasters from supplying free time to candidates for other public offices. "Greed" would have better summarized the matter, I should have thought. For history does show that broadcasters are no more inclined to provide free time to Senators, Congressmen and local candidates when there are only two in the race than when there are many.

(2) Every nation in the civilized world, to my knowledge, not only provides free time on television for candidates for elective office, it simply forbids the purchase of time. The spectacle of the President of the United States selling off the government to raise the \$50 million he felt he needed for his campaign makes us an international laughing stock, and may ultimately be credited with the decline and fall of the American Empire—a nation once committed to self-government by the people rather than our largest corporations. In an age when most of those campaign expenses go for media exposure—and the same corporations are sponsoring our candidates as are sponsoring all the other irrelevant programming on TV—we simply must require free time for candidates if we are to begin to address the campaign spending reform problem. To loosen a spending limitation once you have expended the Herculean energy necessary to enact it seems to me a little tragic.

(3) It should be recognized that this legislation is of the two party system, by the two party system, and for the two party system. The effect of it will be to reduce to even further obscurity the feeble efforts against overwhelming odds that third parties must now confront in the United States. As evidence of how little time third party candidates get even with the applicability of Section 315, I attach an opinion of mine in a case involving Dr. Benjamin Spock's candidacy this past fall. I shudder to think how he might have fared at the hands of the broadcasters if he did not even have the protection of that law. The basic American legislative landmarks that have first surfaced to public attention on the platforms of splinter parties are legion: the progressive income tax, social security, and so forth. For the two major parties to stifle their third party "competitors"

even further strikes me as not only unseemly, unfair, and unnecessary—but unwise. They will be losing their best source of new ideas.

Thank you, Mr. Chairman, for the opportunity to present this brief statement of my differences to you.

FEDERAL COMMUNICATIONS COMMISSION,  
Washington, D.C., November 6, 1972.

PEOPLES' PARTY.

c/o Samuel J. Buffone, Esq., Stern Community Law Firm, Washington, D.C.

GENTLEMEN: This is in reply to the fairness doctrine complaint filed on behalf of Dr. Benjamin Spock, candidate of the Peoples' Party for the office of President of the United States, against the ABC, NBC and CBS television networks for their alleged failure to broadcast adequate coverage of the controversial issues of public importance raised by his candidacy. You request that the Commission require ABC, NBC and CBS to provide at least one-half hour of time on Monday evening, November 6, 1972, for the presentation of the Peoples' Party views on the issues involved in the current Presidential campaign, and that the Commission direct that, "Dr. Spock personally be permitted to express his views on these controversial issues due to the unique nature of the fairness doctrine consideration presented herein."

You state that the Peoples' Party is a national political party with candidates for local, state and national offices; that its candidates for President and Vice President (Julius Hobson) are on the ballots of ten states; that it adjudges its strength to be between five and ten per cent of the nation's electorate; that Dr. Spock and Mr. Hobson were formally nominated at the Peoples' Party Convention in St. Louis, Missouri, on July 29, 1972, and have been waging an extensive national campaign since that date; that there has been almost total lack of network broadcast coverage; that both CBS and NBC carried one to two-minute segments discussing the party's convention on July 29; that as the result of an equal time complaint pursuant to Section 315 of the Communications Act, NBC carried a brief interview with Dr. Spock on its early morning "Today Show"; that on October 8, 1972, ABC presented Dr. Spock and three minor party presidential candidates on its "Issues and Answers" program; that on October 15, 1972, CBS carried a seven-minute segment of its morning news on the Spock campaign; and that on October 30, 1972, ABC carried a two and one-half minute segment on its evening news program.

You assert that NBC and ABC repeatedly promised additional coverage, yet refused specific requests and equivocated on the exact nature of time of the promised coverage.

You state that Dr. Spock's candidacy presents a controversial issue of public importance; that by extensively covering the campaigns of President Nixon and Senator McGovern, "the networks have given disproportionate coverage to one side of this controversial issue"; that Dr. Spock's candidacy raises numerous other controversial issues of public importance such as the war in Vietnam, military spending, abortion, and guaranteed income, and that these issues take on a unique character when associated with candidates for that office. You contend that "when only one side of these controversial issues is carried during news programming exempted from equal time treatment by Section 315, the licensee is nevertheless not relieved of its fairness doctrine obligation to cover these issues fairly."

In their responses, the networks state in essence that the complaint sets forth no valid grounds for its request; that the Commission's requirements for fairness doctrine complaints have not been met; that Dr. Spock's complaint is against their news coverage of him and the Peoples' Party; that exercise of news judgment in coverage of political campaigns, like that with respect to other news events, falls within the discretion of a licensee and must prevail unless unreasonable or in bad faith; that the 1960 Amendments to Section 315 recognized journalistic news judgment (CBS); that there are at least 12 "self-professed candidates for President" and that "the inhibitions which granting the complaint would have on broadcaster coverage of campaigns with as many possible candidates would clearly violate the Congressional interest in establishing the Section 315 exemption" (NBC); and that fairness "does not require that equal or comparable amounts of time be given to fringe parties" (ABC). ABC cites the Broadcast Bureau's *Letter to the Libertarian Party*, — FCC 2d— (October 31, 1972), and ABC and NBC cite the Commission's *First Report, Handling of*

***Political Broadcast; The Handling of Public Issues Under the Fairness Doctrine and the Public Interest Standards of the Communications Act, 36 F.C.C. 2d 40 (1972).***

**DISCUSSION**

At the outset, we note that you have characterized this as a "fairness" rather than an "equal opportunities" complaint. However, you ask specifically that the Commission order that Dr. Spock be permitted by the networks to appear personally on the November 6, 1972 program requested by you. The Commission has power to order a candidate on a non-exempt program only if a licensee has failed to afford equal opportunities under Section 315. Since you are not complaining of, nor has any showing been made, of a Section 315 equal opportunities violation by any network, there is no basis for the Commission's granting your request. We now address ourselves to the fairness aspect of your complaint.

The controversial issue of public importance involved here is who should be elected President of the United States. Under established fairness doctrine procedures (see *Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance*, 29 F.R. 145 (1964)), a complainant must first make his complaint to a licensee or network and, if not satisfied, furnish the Commission with reasonable grounds for his contention that the licensee or network has failed in its overall programming to afford reasonable opportunity for the presentation of contrasting views on a specific controversial issue of public importance. We note initially that the Peoples' Party did not make its complaint first to the networks. Moreover, the complaint was not filed with the Commission until the close of business on Thursday, November 2, and the networks did not receive their copies until November 3, although the complaint is based on the networks' conduct throughout the campaign.

We do not have sufficient facts here to make a ruling that there has been a violation of the fairness doctrine. Thus, the only information before the Commission is that the People's Party candidates for President and Vice-President are currently on the ballots of 10 states and that the Peoples' Party has "been conducting extensive national campaign" since July 29, 1972. You state that the Party has lawsuits pending to obtain full ballot status in three of the states and that "write-in campaigns for local and national candidates are active in all unballoted states except Alaska and Wyoming." You furnished no further information with respect to the nature and extent of Dr. Spock's campaign. Thus, you have set forth no reasonable grounds for concluding that the substantiality of Dr. Spock's campaign is such as to render unreasonable the networks' judgment that in their overall programming they have adequately covered the campaign under the fairness doctrine. See *Allen C. Phelps*, 21 FCC 2d (1969), generally with respect to the type of showing a complainant should make to warrant a finding that fairness has not been complied with. In this case, you have presented us with no facts to show that there has been any violation of the fairness doctrine.

In view of the foregoing, no Commission action is warranted at this time and your complaint IS DENIED.

Commissioner Hooks absent; Commissioner Johnson dissenting and issuing a statement.

By direction of the commission

BEN F. WAPLE, *Secretary*.

Enclosure.

**THIRD PARTY TIME [LETTER TO PEOPLES' PARTY]**

**DISSENTING OPINION OF COMMISSIONER NICHOLAS JOHNSON**

Dr. Benjamin Spock is the Peoples' Party candidate for President of the United States.

You wouldn't know it from watching CBS and NBC. Both networks have devoted zero minutes and zero seconds of coverage to his campaign from October 16 through November 5—the crucial last three weeks before election November 7, 1972.

The majority finds this complies with the networks' obligations under the Fairness Doctrine.

I dissent.

This is not as easy a case as either the majority's characterization of it—or mine—would tend to indicate.

It is snarled in legal, procedural and factual disputes. There is something to be said for almost everyone's point of view on almost every issue.

Nonetheless, on balance, I believe the Commission is in error, and that the Fairness Doctrine does impose an obligation on CBS and NBC to make more time available to the Peoples' Party.

### *I. Equal time*

It is important to note, at the outset, that this is *not* one of the so-called "equal time" cases.

Section 315 of the Communications Act provides that if a broadcaster permits a "use" of his station by a candidate he has an obligation to "afford equal opportunities to all other such candidates for that office." If the time was made available free, he must make free time available to all. If it was sold, he cannot refuse to sell time to others.

Neither the Peoples' Party nor the FCC treat this complaint as an "equal time" complaint. I must, therefore, presume that no free time was given by the networks to Richard Nixon or George McGovern, and that Dr. Spock's failure to purchase time to match theirs was a personal choice or (more likely) a lack of funds, rather than a refusal to sell time by the networks.

Section 315 specifically excludes from the "equal time" doctrine, however, a number of categories of candidate coverage. These include:

- (1) bona fide newscast,
- (2) bona fide news interview,
- (3) bona fide news documentary . . . , or
- (4) one-the-spot coverage of bona fide news events. . . .

It is these categories which give rise to the controversy before us.

### *II. The fairness doctrine*

In addition to the "equal time" requirements, broadcasters also have an obligation to comply with the "fairness doctrine."

Immediately following the list of exemptions to the "equal time" doctrine, Section 315 goes on to say:

"Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance."

"This sentence is the basis for what has come to be called the "fairness doctrine."

The fairness doctrine requires two things of a broadcaster: (1) that he cover "issues of public importance," and (2) that he do so fairly, that he present "conflicting views," that he not use his station to censor, or propagandize for one point of view or another. This is not, it should be noted, a requirement that "equal time" be devoted to all views, nor is it a requirement that any given individual need be put on the station.

### *III. Candidates and Fairness*

Thus, at the threshold, we are confronted with the question of whether the fairness doctrine covers candidates at all. In its letter of November 6, 1972, for example, NBC states unequivocally, "NBC does not believe the fairness doctrine applies to candidates." The argument for this point of view would be that the equal time doctrine is the only law intended to cover candidates, that fairness only covers other kinds of issues, and that so long as a broadcaster has complied with the equal time doctrine he has no further obligation to candidates.

The law is very clear as I read it. The fairness doctrine *does* cover the election coverage of candidates. Accordingly, I think it would be extremely unfortunate if any ambiguity were left on this score.

The language of Section 315 really needs no interpretation, or legislative history. It is crystal clear. After stating the exemptions to the equal time requirements, Congress very expressly stated that, "Nothing . . . shall be construed as relieving broadcasters . . . from the obligation . . . to afford reasonable opportunity for the discussion of conflicting views on issues of public importance" [i.e., the fairness doctrine]. And that is precisely what NBC is trying to do: to construe the equal time doctrine as relieving it from its obligations under the fairness doctrine.

As I say, the Act really stands on its own language. However, it may be viewed as somewhat reinforcing to know that the Commission has always reassured Congress that it would, indeed, interpret the language as Congress wrote it.

Thus, on March 2, 1971, Chairman Dean Burch, in testifying before the Senate Commerce Committee on S. 382, presented alternative draft legislation and analysis to deal with what he called "fringe candidates." The proposal would, in brief, have limited equal time to those candidates receiving more than 2 percent of the vote, or 1 percent signatures on petitions. He was very careful on that occasion to assure Congress, however, that "candidates who do not meet any of the above criteria" would not be excluded from the airwaves; "licensees would still be bound by the requirements of the 'Fairness Doctrine,' . . ."

To my knowledge, it has never been seriously suggested—prior to this case—that the fairness doctrine was inapplicable to candidates in a Presidential election.

#### IV. What is a "Candidate"?

The Commission majority says it is inhibited in ruling on this case because it does not have enough information to judge, among other things, whether or not Dr. Spock is a candidate.

The following is uncontroverted in this proceeding:

(1) The Peoples' Party held a national nominating convention in St. Louis, Missouri, on July 29, 1971;

(2) The Peoples' Party nominated Presidential (Dr. Benjamin Spock) and Vice Presidential (Julius Hobson) candidates on that occasion; and

(3) The Peoples' Party Presidential and Vice Presidential candidates are on the ballot in ten states, and are conducting write-in campaigns in some other states.

We have the Party's allegation that their candidates have been waging an extensive national campaign. We do not have a detailed itinerary of the candidates, but we might take judicial notice of the fact that it would not have to be very extensive to exceed that of the Republican Party candidate this year.

Given these facts, it seems to me preposterous to hold any serious doubts about whether or not Dr. Spock is, in fact, a "candidate" for the Presidency—unless one looks only to the probability of election as a criterion. And *that* standard would raise some question about the Republican candidate in 1964—and the Democratic candidate this year.

#### V. How Much is "Fairness"?

Once we acknowledge that the law requires the broadcaster to give *some* time to Dr. Spock under the fairness doctrine, the questions then arise as to how much and when.

My own view is that the three weeks prior to an election is a crucially important time for any candidate, and that any common sense approach to either equal time or fairness in politics would have to acknowledge that fact.

For example, I do not believe the fact that ABC, CBS and NBC covered Dr. Spock's acceptance speech on July 29, 1972, is evidence that he has been fairly treated in October—although it may be some evidence that his candidacy *was* taken seriously by the networks at that time.

ABC is the only network to give any attention to Dr. Spock's candidacy during the last three weeks of the campaign—two and one-half minutes in the October 30, 1972, evening news show. In addition to the convention coverage, ABC also presented Dr. Spock for 12–15 minutes on a special Issues and Answers program on Sunday, October 8.

CBS presented an interview with Dr. Spock for about seven minutes on October 13, 1972, in addition to its July coverage.

NBC offered Dr. Spock time on a program about minority candidates on August 27, 1972 which he was unable to accept. Following an equal time complaint, it reluctantly presented a brief interview with Dr. Spock on the Today Show on September 13. It also covered the convention in July. It has, apparently, presented *nothing* regarding Dr. Spock's candidacy since September.

Whatever may be said of CBS and NBC's coverage during August, September, and the first two weeks of October—one seven-minute appearance on CBS and one "brief" interview on NBC—it seems clear to me, that their coverage during the last three weeks of the campaign—zero appearances and zero minutes—does not comply with their obligations under the fairness doctrine.

### VI. Procedural Problems

The Peoples' Party complaint was filed Thursday, November 2, 1972. It was apparently mailed—special delivery—rather than hand delivered to the networks. CBS—which has many lawyers—received the letter at the “wrong” law firm for matters of this kind.

Notwithstanding these problems, however, the FCC met on the matter on Friday, November 3, and the networks were at least notified of the complaint—and asked to respond—on that date.

Normally, a complainant should first present his fairness grievances to the broadcast stations (or networks) involved, and present the Commission with their answers as well as the complainant's allegations. However, it could be said that the Peoples' Party *did* carry on a running complaint with the networks—which seemed, to the Party, to be always on the verge of promising coverage—until this past week.

Had the networks been able to conduct a more thorough and leisurely search of their records, they might have been able to find they had provided more coverage of Dr. Spock.

These procedural problems are unfortunate. They are not, however, all that unusual in the onrush of last-minute election issues that come to the Commission—most of which are presented, and resolved, orally, with no documentation whatsoever. Nor are they, in my judgment, decisive.

### VII. Relief

Whenever a government agency is involved in broadcast issues involving a Presidential election, with remedies involving news content, on the afternoon before an election, it is perhaps too much to hope that light will overcome heat.

It is very easy to misrepresent the positions of any of the parties or Commissioners involved in this case—including my own.

I have consistently taken the position that the government in general, and the FCC in particular, should not meddle in the news judgment of broadcasters—subpoenaing newsmen's notes and film, criticizing newsmen's “bias,” complaining about “commentaries” after Presidential addresses, and so forth.

I do not want the right to tell Walter Cronkite that he has to present Dr. Spock—or anyone else—as “news.” News judgment is just that, *news judgment*—and the FCC (as the Commission has often unanimously declared) is not the national arbiter of “truth.”

But the Congress has clearly required the FCC to apply the fairness doctrine to minority parties, and the Commission has often reassured Congress it would do so. All our fairness decisions *may* result in a broadcaster righting an imbalance through additional news items; one requires that format. And so it is with this decision: the networks might choose to treat Dr. Spock as “news” this evening; they need not do so should they choose another program format.

Had this case been presented a week or two ago it would have been easier to debate, analyze, and resolve. But that can be said every two years of the election-eve equal time and fairness complaints. I would have preferred to give CBS and NBC more time than a few hours to figure out a way to present Dr. Spock to their viewers in a format that is exempt from the equal time requirements and most conveniently suits the programming schedules and news judgments of the networks. I would not, however, fail to decide the case on those grounds.

Accordingly, I would treat this as any other fairness decision; find that CBS and NBC have not complied with that doctrine in presenting Dr. Spock during the last three weeks of the campaign (two months, in the case of NBC); and require that they make some effort, even at this late hour, to come into compliance with that doctrine. The Commission is seldom more precise than this in ordering relief in fairness cases, and I would not be so here.

I need not, and do not, for the purposes of this separate opinion, reach or pass upon ABC's compliance with the fairness doctrine. I believe all would agree its performance was better than that of CBS or NBC. Whether it was enough better to distinguish it in law is an issue that the majority, necessarily, does not reach.

To find that zero coverage is adequate, however, is a resolution I cannot abide. Therefore, I dissent.

Senator PASTORE. The next witness is Nathan Karp.



**STATEMENT OF AARON M. ORANGE, SR., ON BEHALF OF NATHAN KARP, NATIONAL SECRETARY, SOCIALIST LABOR PARTY**

Mr. ORANGE. My name is Aaron Orange. I am representing Nathan Karp. My position is a member of the National Executive Committee of the Socialist Labor Party, Mr. Karp being our national secretary.

Once again the Socialist Labor Party of America finds it necessary to express its opposition to still another proposal to emasculate further section 315(a), the equal opportunities provision, of the Communications Act of 1934.

In a statement presented before this Senate subcommittee on June 25, 1959, setting forth its objections to the then proposed amendments to section 315(a)—which were enacted by Congress in September of that year as Public Law 86-274—the Socialist Labor Party stated:

Unquestionably the renewed clamor to change or amend the Federal Communications Commission (FCC) regulations is based on a desire to reduce, or eliminate entirely, the participation of minority party candidates in free radio and television time under the so-called equal opportunity provision (Section 315), and thereby confer upon the two major political parties what amounts to a monopoly on the use of the airwaves, which are the private property of no man or group of men.

Despite the fact that as of this date section 315(a) is still a part of the Communications Act, events since 1959 corroborate the view expressed by the Socialist Labor Party at the 1959 hearings. For it is a matter of record that since 1959, the amendments to section 315(a), plus the 1960 suspension of the then already emasculated provision, plus new interpretations and rulings by the Federal Communications Commission, have resulted in virtually eliminating minority party presidential and vice presidential candidates from the public airwaves during the last four national election campaigns. And the same factors have been only slightly less effective in eliminating the minority party candidates for local, State, and other Federal offices from those public airwaves.

Woodrow Wilson is credited with having once observed that:

Nothing could be more obvious than the fact that the very life of free, popular institutions is dependent upon their breathing the bracing air of thorough, exhaustive and open discussion.

As the Socialist Labor Party has observed on earlier occasions, this unique American concept of the great importance of free speech no longer appears to enjoy the same widespread acceptance that it once did. The repeated and persistent attacks that have been made against the equal opportunities provision of section 315 by the licensed operators of the publicly owned radio and television airwaves, and the widespread support that these efforts have received from the privately owned press, public officials, and others, emphasize that fact.

That being the case, we of the Socialist Labor Party consider it necessary again to stress that the question of the free and unrestricted expression of divergent views over the public airwaves is a matter of the gravest importance, involving not only our own constitutional rights, but the constitutional rights of the American people. We are, therefore, impelled to express ourselves forcefully and unequivocally

on the vital matter before us. For we believe that in today's world, where all too many of civilization's hardwon freedoms are rapidly disappearing, with little or no opposition, it is necessary to speak out clearly and emphatically whenever one sees dangers that threaten our rights and liberties. In the meaningful words of Martin Luther:

Those things that are softly dealt with, in a corrupt age, give people but little concern, and are presently forgotten.

Before dealing specifically with the nature, scope, and implications of the latest proposal to limit further the applicability of section 315, we wish to restate several facts that in our considered judgment provide the really important background against which any proposal affecting that section should be considered.

First, it is a fact that the airwaves belong to the people—all the people in the Nation.

Second, it is widely recognized that the airwaves have become the most important and most effective means for communication and discussing matters of public importance. And it appears to be universally recognized that this is particularly true during political campaigns.

Third, it would seem to be axiomatic that the first amendment of the U.S. Constitution is applicable to the communication of ideas over the public airwaves and, accordingly, protects against the abridgment of free speech over these media.

During the 1959 hearings before the Senate Subcommittee on Communications, Senator John O. Pastore, chairman of the committee, very succinctly defined the basic purpose of section 315(a) in the following statement:

The purpose of equal time is to give equal time. Equal time is not to serve the candidate. Equal time is to serve the public. That is the reason for the rule.

Later in those hearings the Senator stated:

And once the person is qualified (as a candidate), then the question arises that if the people have a right to decide whether or not they shall vote for that man . . . then I think the people have an equal right to hear what he has to say if you are going to listen to somebody else . . . for the same office. And that is the philosophy behind equal time . . .

And still later he added:

. . . And we have got to preserve the philosophy of equal time. . .

The Socialist Labor Party of America fully concurred in these views when the Senator expressed them, and still concurs in them. We would add that in no campaign is it more imperative to assure that "equal time serve the public" and "that people have an equal right to hear" all the candidates than during the campaigns in which the highest office in the Nation—the offices of President and Vice President—are being contested.

However, the bill, S. 372, now under consideration, proposes:

1. To exempt candidates for the offices of President and Vice President from the provisions of section 315(a); and
2. To establish a new ceiling for total campaign expenditures and redefining how those expenditures may be made by or on behalf of a candidate for Federal office.

As to 1: We hold that this proposition does not square with the concept that "the purpose of equal time is to give equal time" in order to "serve the public." Nor, in our judgment, does it square with the sound

and logical observation that if the people have a right to decide whether or not to vote for a legally qualified candidate, they "have an equal right (in fact, a need) to hear what he has to say." Finally, we regret to note that the bill constitutes a negation of Senator Pastore's laudable admonition that "we have got to preserve the philosophy of equal time \* \* \*."

**Senator PASTORE.** Mr. Orange, on that very subject, there is nothing in the bill that we have suggested that would deny the Socialist Labor Party being given free time by the networks. Now, you may argue that if you leave it to their judgment, they would never recognize you and you would have a valid argument. But the fact still remains that our bill is not discriminatory in that sense.

We are not saying to whom they shall give this free time. Now section 315, which entitles you to equal time has to be bought time unless free time is given. Then, of course, it has to be given to all.

Under the bill we are considering now, we are trying to meet the practical situation where you might have 20 or 30 different Presidential candidates. If section 315 is not repealed in order to give them free nationwide exposure the cost would be so great no one would get it.

At the same time this bill does not say they have got to give it to the Republicans or to the Democrats or to you. I thought I should point that out to you, because you could be a beneficiary of this bill.

**Mr. ORANGE.** If I may comment on your remarks?

**Senator PASTORE.** Yes.

**Mr. ORANGE.** The corporations that own the TV and radio stations and so on are in business for profit. Their concern is profit, not the education of the people of the United States.

We of the Socialist Party, on the contrary, are in the business of educating people throughout the United States as to what our program is.

Now, if Abraham Lincoln, who was a minority candidate in 1856 and 1860, if he were around today, he would not be getting equal time, according to the provisions of section 315(a) and the entire Federal Communications Act.

**Senator PASTORE.** Why not?

**Mr. ORANGE.** Yet he did become a majority candidate. We have full expectations of becoming a majority party here in the United States and yet we are being denied the right to air our views simply because some corporations insist they are not making enough profit, violating the first amendment in fact.

**Senator PASTORE.** Have the people of your party ever purchased nationwide television time?

**Mr. ORANGE.** We don't have the money. We are a minority party.

May I just point out, too, that in this last campaign, we got not one single broadcast or telecast in the United States from the stations here in the United States with one exception, and that was not the result of section 315(a). We got a half hour of time on "Issues and Answers" on the ABC network. That is all we got in the last campaign. We got no other television time nationally.

We purchased some radio time nationally on CBS. That was it.

**Senator PASTORE.** When you talk about what the other parties got, of course, actually no one got any free time on a national hookup the last election. They did buy time.

Mr. ORANGE. We understand that.

Senator PASTORE. They did buy time. Your argument is you couldn't afford to buy it now. As it stands now, even with section 315 you did not get national exposure except on radio. What would be your answer to this? How would you get national exposure free?

Mr. ORANGE. Before the amendments were made to section 315(a) we did get a fair amount of exposure. That is my answer: Before the amendments in the last few years were made, we were getting national exposure. I know that to be a fact. The amendments in the last decade or so have brought about a situation where we are no longer getting any time, and even the fairness doctrine doesn't mean a thing, because these corporations, as you know, are in business for profit—not in the business of educating the people of the United States.

May I proceed?

Senator PASTORE. Yes, please.

Mr. ORANGE. It has been argued that exempting the candidates from section 315(a) would result in a more widely informed electorate. In support of that contention the 1960 suspension of the equal time provision and the debates that followed are cited repeatedly, the two-fold implication being that the alleged enlightenment of the 1960 electorate was the result of the debates between Messrs. Kennedy and Nixon, and that since then debates between the major party Presidential candidates have been prevented by the provisions of section 315(a).

We emphatically disagree with the claim that the 1960 electorate was widely informed. We agree with Hallock Hoffman, staff director for a study of the political process for the Center for the Study of Democratic Institutions—a study that included the 1960 Presidential campaign and its so-called great debates—who stated:

\* \* \* For the detached observer, the outstanding quality of the 1960 television campaign was its absence of attention to any of the new and important facts about the world. Neither the arms race, nor technology, nor the population explosion \* \* \* not the uncontrolled exploitation of our natural resources, nor the irrelevancy of our economic policies was argued about during the television discussions. What was said about such matters was said before small audiences in single localities, where the candidates could gauge the possible losses in popularity by ascertaining the biases of their audiences before they spoke.

Theodore H. White expressed it quite bluntly in his book "The Making of the President, 1960." "Rarely in American history," he wrote, "has there been a political campaign that discussed issues less or clarified them less."

However, wholly aside from the highly debatable conclusion that democracy is or can be served by confining debates to two candidates, or even three, who uphold the existing social system and its basic political, economic, and social concepts, to the exclusion of all candidates who challenge the status quo, the implication that such debates have been prevented by the equal-time provision is refuted by the facts.

In 1964, there were no debates between President Johnson and Mr. Goldwater because Mr. Johnson considered himself to be well ahead in that race and refused to give Mr. Goldwater any opportunity to close that gap.

In 1968, there were no debates because Mr. Nixon considered himself the front-runner and also refused to give Mr. Humphrey any opportunity to close the gap through debates. In fact, though Mr. Nixon had stated in June 1964 that he was "convinced that television debates are essential," in September 1968 he dismissed them as "kid stuff."

Mr. Nixon's "double standard" in this respect was no exception. When it suited their purposes, there were occasions when Messrs. Goldwater and Humphrey also refused to debate their opponents. Thus, during the primary campaigns of 1964, Mr. Goldwater refused to debate Mr. Rockefeller and later Mr. Scranton; while in 1968, Mr. Humphrey refused to debate Mr. McCarthy.

Little wonder then that when Mr. McGovern, shortly after his nomination, called for the suspension of section 315(a) in order to permit the broadcasters to present debates between himself and President Nixon without running the risk of incurring any obligation to give equal time to any other Presidential candidates, Broadcasting magazine editorially observed:

If Democratic presidential aspirant George McGovern thinks he can cajole President Nixon into even a single television debate \* \* \* he is whistling "Dixie."

The whole point is that in none of the instances cited—and many more could be cited—was the equal-time provision the basic reason for debates not taking place. That provision has simply become a convenient excuse for candidates who feel debates would hurt their campaign strategy.

However, the fact that no debates took place between the above candidates does not justify the conclusion that the major party candidates and/or the views they espoused were not given much exposure by the radio and television media. Broadcasters always give liberal periods of free time, directly and indirectly, to the major party candidates, as well as to "maverick" candidates who uphold the general social political and economic status quo.

A high percentage of news time is devoted to them. Special documentaries are devoted to them. They are presented on many of the news interview shows. Et cetera, et cetera. And none of those programs are subject to section 315(a) or, for that matter, to the so-called fairness doctrine.

We are aware of the promises by spokesmen for the broadcasters—and particularly spokesmen for the networks—that if they are freed from what they call the "restrictions of section 315," they will give free time to "significant candidates." We are not at all surprised that in their great desire to be freed of as much Government restriction or supervision as possible, they readily give such "assurances." Even if we accept them at face value, however, there are some very important questions that should give us pause.

Who is to decide on what basis the "significance" of a candidate is to be determined?

How much "significance" must he have to be entitled to exposure on the airwaves, and how much exposure?

How can a candidate attract the following and make the kind of "impact" that would convince the broadcasters that he is a "significant" candidate? Isn't it a fact that in our present society one can become a "significant" candidate only as a result of repeated exposure on the airwaves?

Nothing in the record of the overwhelming number of broadcast licensees justifies the conclusion that they can or should be trusted to treat all candidates for public office in keeping with the basic principles of democracy. In the past, they have resorted to many devices to evade their legal responsibilities to the democratic process

prescribed in section 315(a). If they fail to meet their responsibilities and obligations when the law is on the books, what justification is there, or can there be, for assuming that they will suddenly become paragons of democracy and responsive to its principles once the law is removed?

There is another consideration to keep in mind. It is one that serves to emphasize the full extent of the limitation of democracy that could result from the enactment of the revision of section 315(a) proposed in S. 372. It is all too frequently ignored, or overlooked, that that section not only obligates the broadcasters to provide free equal time on demand to all legally qualified candidates for President and/or Vice President, if they gave time to one, it also obligates them to sell equal time upon demand to all such candidates, if they sell time to one. In short, exempt presidential and vice presidential candidates from the equal time rule, and you shut the door upon them not only with regard to free time but with regard to paid time as well. The broadcasters—and the broadcasters alone—would then be completely free to determine which candidates for the two highest offices in the Nation will be seen and heard by the electorate.

The inclusion in the 1959 amendment to section 315(a) of the provision known as the fairness doctrine in no way alters this fact. It is particularly pertinent to consider this point because of the oft repeated claim that if section 315(a) were completely repealed, the fairness doctrine would still afford a measure of protection to all candidates, including those of minority parties.

The experience of the Socialist Labor Party refutes that claim. We have found that the fairness doctrine is practically meaningless. No effective effort is ever made really to enforce it, except possibly where powerful or influential organizations are involved. For the most part, it is ignored by the licensees with impunity, particularly where minority parties and their candidates are concerned.

Unless section 315(a) clearly applies to a given case, the broadcasters generally refuse to consider—many won't even acknowledge—a request from a minority party or one of its candidates for a "fair" and "reasonable" opportunity to present its opposing views on an issue or issues that candidates and representatives of the two major parties have been given repeated opportunities to discuss.

When the matter is taken up with the FCC, the net result generally is receipt of a letter from the FCC blandly informing the complainant that while the licensee is obligated "to afford reasonable opportunities for the presentation of opposing views," the question is one of "reasonableness of a licensee's action." Often the FCC doesn't bother to say whether it believes such "reasonableness" has or has not been practiced by the licensee in the instance under consideration. It simply leaves the matter hanging there. The broadcaster understands that he is off the hook and acts accordingly.

In its "Public Notice-B," dated October 3, 1962 (p. 2), the FCC stated in part:

\* \* \* We are of the view that the 1959 amendments to the Act constituted an affirmation and codification by the Congress of the Commission's "fairness doctrine." With regard to programs not coming within the "equal opportunities" provision of Section 315, but relating to important public issues of a controversial nature, including political broadcasts, it is particularly important that licensees recognize that the specific obligations imposed upon them by the provisions of

Section 315 of the Communications Act with respect to certain types of political broadcasts do not in any way limit the applicability of general public interest concepts to political broadcasts not falling within the "equal opportunities" provision of Section 315. On the contrary, in view of the obvious importance of such programming to our system of representative government, it is clear that these concepts \* \* \* are of particular applicability to such programming.

Despite this strongly worded enjoiner, the Socialist Labor Party cannot point to a single instance since 1959 in which the FCC has supported, by word or action, our party's request for time under the fairness doctrine, including many such requests made during national campaigns.

In short, the broadcast licensees manifest a complete disregard for the "Fairness Doctrine," as far as minority parties are concerned, despite the specific emphasis placed upon this doctrine in the 1959 amendment. They refuse to recognize any obligation under it so far as minority party candidates are concerned and invariably they are upheld by the FCC in that respect. This speaks volumes on what would happen if the candidates for President and Vice President were exempt from the equal opportunities provision.

The idea that equal time somehow inhibits the democratic process, or creates an obstacle to efforts to inform the electorate, is illogical. How can a law that provides equal opportunity for all candidates to present their views to those who must choose among them inhibit the democratic process? How can the opportunity to hear and consider all views be an obstacle to creating an informed electorate?

If the old saw is raised that in order to avoid presenting all views many licensees resort to the practice of presenting no views, our reply is that the solution does not lie in giving the broadcasters the right to suppress the views of some legally qualified candidates in order to induce them to present the views of other such candidates.

Rather, the broadcasters should be required to grant specific amounts of time to all legally qualified candidates as equals. It is little enough the licensees can do in return for the privilege they have been granted to exploit the airwaves for their personal gain. But under no circumstances should a group of privileged licensees be given the power to determine which candidates shall be heard via the most modern and effective media—media that belong to the people, no less.

Unfortunately, a great many Americans have little idea of what section 315(a) is all about. And those who control the media have done precious little to enlighten them. What few programs have been presented over the years dealing with this important subject have had more than their share of loaded panels that, more often than not, distorted and misrepresented the facts. Little wonder that so many fail to realize that section 315(a) is a provision whose original intent was not merely to protect the rights of all legally qualified candidates to use the public airwaves on an equal basis, but more importantly, to protect the people's right to hear and consider the divergent viewpoints and programs of the various candidates before choosing their representatives to local, State and National offices.

It cannot be repeated too often that creating the opportunity for a more frequent presentation of the substantially identical views of the major parties and their candidates, while at the same time suppressing, or drastically limiting the expression of all divergent views, is the very antithesis of democracy. It would eliminate an essential ingredient of

democracy—the right of proponents of new ideas to be heard on an equal basis with those who defend and uphold the status quo.

Before concluding this statement we wish to comment briefly on the second objective of S. 372; namely, to amend title I, the Campaign Communications Reform Act of the Federal Election Campaign Act of 1971, so as to establish a new ceiling for total campaign expenditures made by, or on behalf of candidates for Federal elective offices.

We can best convey our views on this proposal by stating that it is our considered view that the entire Federal Election Campaign Act of 1971, including the Campaign Communications Reform Act that S. 372 seeks to amend, ought to be repealed because, among other things, it has failed to achieve its declared purpose and because, in our judgment, it not only poses a threat to supporters of unpopular causes, it violates the democratic concepts and traditions of our Nation by undermining the principle of the secret ballot.

We firmly believe that the ways and means by which the costs of campaigns can be reduced are the concern of the candidates and their political parties. It is, or should be, up to them to keep their costs within their resources. Certainly, it is not the concern of the Government whether or not these candidates remain financially solvent. No compulsion rests upon any citizen to run for public office. He or she is motivated to do so by what are, in fact, private political ambitions.

Moreover, we believe that in a nation proclaiming itself free, a citizen should have the unrestricted right to support financially the candidates with whose principles and program he agrees. The present law has an inhibiting effect on his right to do so, to say the least.

In this connection, we quote approvingly the following from a statement submitted under date of December 15, 1972, to the Director of the Office of Federal Elections by the "Socialist Labor Party 1972" Committee:

... there can be no doubt that the provision that requires listing the name, address, occupation and principal place of business of those whose contributions in the aggregate exceed \$100, plus the provision that that information is to be made "available for public inspection and copying" does inhibit and discourage those who might otherwise support candidates of a minority party advocating an as-yet unpopular program for social change. They may well fear that if their support of such candidates became known, they might become the victims of prejudice in one form or another. Some may fear the loss of their livelihoods, their jobs. Some may fear that they may become the objects of hate and/or victims of acts of spite.

None of this need happen. The individual need only fear that it could or that it might happen. He or she may remember that during the McCarthy era it did happen. . . . And he may justifiably conclude that it will happen again. The fear of reprisals is sufficient to inhibit the exercise of his political rights and freedoms.

The right to anonymity in such matters as politics is inherent in the democratic traditions and principles of this nation. It is the principle applied and recognized in the use of our secret ballot. Why should any voter be required to reveal prior to election day, what he is not required to reveal—in fact what he is protected from being forced to reveal—on election day? . . .

It should be added that the Socialist Labor Party defends and insists upon the right to anonymous contributions to political parties despite the fact that during its more than 80 years of participation in local, state and national political campaigns it has always publicly acknowledged every contribution to its funds in its official organ except when specifically requested by the contributor to withhold his or her name. And such requests are, and have been, rare. It has done so voluntarily without the compulsion of any law. It has done so in response to its own principles of decency, integrity and honesty. But it resents, protests and objects to any legislation that denies the right and protection of anonymity to the citizens who fears reprisals for his opinions.



We know that men of wealth have had a corrupting influence on our electoral process. And we have little doubt that they will continue to have such influence. That ugly fact of our political life cannot be altered by laws that chip away at our liberties either directly, or by intimidating and harrasing those who would use the ballot to resolve our social problems peacefully. \* \* \*

In conclusion, we repeat the concluding paragraph of the statement we submitted to your committee on July 12, 1962, it being as relevant now as it was then:

The retention of our democratic institutions and the opportunity for a consideration of peaceful and civilized solutions to our many problems depend on a free ballot. And the free ballot, in turn, depends on our freedom to speak, to think and to listen to new and varied opinions and ideas. We may be sure that when one of these basic freedoms is undermined it will be just a matter of time before all are undermined. Retaining, or more correctly, reestablishing freedom of speech over the public airwaves is essential to our democratic processes. For, if our traditional and constitutional freedoms are to be made secure, the airwaves can no more be monopolistically assigned to special interests than can the seaways, the thoroughfares, or the public parks.

Senator PASTORE. Thank you very much, Mr. Orange.

Merely for the purposes of the record, would you have any data with you that would indicate what the percentage of your party's vote was at the last Presidential elections?

Mr. ORANGE. I do not have the figures.

Senator PASTORE. Could you give it for the record?

Mr. ORANGE. In the first place, we were on the ballot only in 12 States because of restrictions in the ballot. It is impossible to get on the ballots in some States in the United States.

Senator PASTORE. I am not being critical.

Mr. ORANGE. I can give you a figure. In the 12 States, we got less than a hundred thousand.

Senator PASTORE. I see. Thank you very much.

Senator HART?

Senator HART. I think the chairman commented to me during the course of your presentation that your statement is a thoroughly sobering document. I am sure we shall consider it.

Mr. ORANGE. Of course, we hope you bear it in mind in making your recommendations.

Senator HART. The difficulty is in balancing the competing interests.

Senator PASTORE. You mentioned that, since the modification of section 315, you have been excluded from exposure.

Mr. ORANGE. The last three national campaigns.

Senator PASTORE. As I recall, the only exceptions that were made by that modification were with reference to news programs and interviews. Do you mean that before that time they would interview you because they had interviewed others, and after we amended the law they stopped interviewing you, is that it?

Mr. ORANGE. Exactly.

Senator PASTORE. I see.

Mr. ORANGE. And possibly reinforcing that argument, in local campaigns, for example, in the city of New York mayoralty campaign 4 years ago, we got some time—not much—but some news interview time. We don't get it in Presidential campaigns. And, I repeat, in the last Presidential campaign, we got one national television program on the ABC network hookup.

Senator PASTORE. Issues and Answers?

Mr. ORANGE. Yes; and it was not in response to section 315(a). They simply gave it to all minority parties, indicating that they were willing to suffer a loss in profit in order to give exposure to the minority parties. Apparently, the major networks are not.

Senator PASTORE. Of course, I think you would run into a difficulty if you are only running in 12 States and national coverage would cover 50 States, it would raise a problem.

Mr. ORANGE. Oh, I might say, Mr. Chairman, the fact that we were able to get on the ballot in only 12 States doesn't mean that our campaign wasn't nationwide. We happen to be a national organization. For example, in California we are not on the ballot, but we have a rather prosperous organization out there.

Senator PASTORE. But they can't vote for you; can they?

Mr. ORANGE. Exactly, which is not our fault. It is once again restrictions on the ballot. The Supreme Court has made some judgments on that matter in recent years, and that is how we happened to get on last year in Ohio, but we won't be on 4 years from now, because the law still effectively keeps us out.

Senator PASTORE. I must compliment you on a very spirited presentation. Thank you very much.

Mr. ORANGE. Not at all.

Senator PASTORE. Mr. Hemenway. It is always a pleasure to have you, Mr. Hemenway. You may now proceed.

**STATEMENT OF RUSSELL D. HEMENWAY, NATIONAL DIRECTOR  
NATIONAL COMMITTEE FOR AN EFFECTIVE CONGRESS, NEW  
YORK, N.Y.; ACCOMPANIED BY SUSAN KING, DIRECTOR, WASH-  
INGTON OFFICE**

Mr. HEMENWAY. It is a pleasure for the National Committee for an Effective Congress to be invited once again to appear before your subcommittee regarding campaign finance reform measures.

This is coming to be something of an annual event, Mr. Chairman, like the rites of spring for the NCEC.

First, we were working for the proposed Campaign Broadcast Act which President Nixon vetoed just before the 1970 elections, and then on the more comprehensive Federal Election Campaign Act of 1974 which was approved and went into effect in April of last year.

It is largely due to your unflagging efforts, Mr. Chairman, and those of other dedicated members of this committee, that we do now have a law limiting media expenditures and requiring full public disclosure of campaign financing.

If it had not been for your dedication and persistence, Senator Pastore, I dare say there would have been no such legislation. I think probably this committee knows this as well as anybody in the country.

While we all agree that this measure is not perfect, nor the final solution to all our political problems, it is a tremendous improvement over the earlier ineffective and unenforced Corrupt Practices Act.

The NCEC is proud of its long involvement in the fight for the new law and pleased to have made at least a small contribution to your committee's work on that bill.

Election and campaign finance reform remains a tremendously complex issue—too dreary for some, too controversial for others. The temptation, with one success recently on the books, is to put it aside for a time.

Yet the examination of the electoral process and the impact money has on it must continue, for what Congress does or does not do in this area now will determine the shape of our political system in the future.

We commend you, Mr. Chairman, for once again taking the lead in introducing your own proposal and in reopening public discussion.

As this subcommittee knows only too well, the 1971 Federal Elections Campaign Act was the first major revision of our campaign finance laws in half a century.

Almost as important as the bill itself was the lengthy debate which attended its passage, giving rise to serious and, we think, constructive examination of the nature of the American electoral process as it now operates, what needs to be corrected, and how we might best achieve those ends.

I think most students of American politics agree on what our general goals are: An open, competitive electoral process which informs the public and encourages citizen participation.

Within this broad frame we probably agree further, Mr. Chairman, that campaign spending in general has gotten out of hand, that candidates who are unable or unwilling to compete at this current price level are increasingly excluded from the political arena and that the very wealthy contributor by definition now exerts undue and unfair influence on the electoral process.

It is in deciding how to address these problems that men and women of good will begin to disagree. After 25 years' experience in congressional campaigns, the NCEC has come to believe that the only real solution lies in some form of public election subsidy which allows candidates to compete on the basis of merit rather than pocketbook, free from corroding dependence on personal or family fortune or the gifts of large, special interest bankers.

This would provide not only the means to control exorbitant spending, but would also promote greater equality of competition among candidates and reduce the advantage the rich contributor has over all other voters in influencing the election of the people's representatives.

Our committee is the first to recognize that changes as fundamental as this do not occur overnight.

Several years of concentrated effort were required to pass the disclosure requirements and media spending limits of the 1971 reform bill, and there is already talk in some quarters of attempting to repeal or seriously weaken even this modest bill.

Fifteen years passed before Congress moved to broaden the base of political givers by allowing citizens, for the first time, a modest tax creditor deduction for small political contributions.

The \$1 income tax checkoff for Presidential elections, which gave an initial nod to the concept of public subsidy for campaigns, was at the time of its adoption, and still remains, a hotly controversial issue with an uncertain future.

I am sure, Mr. Chairman, that if the public knew about this checkoff system, the law of the land as it is now on the books, they would take advantage of it.

The fact is that Americans have very little knowledge that this law exists, and I think this Government is remiss in not publicizing it.

Given the complexity of campaign financing, the traditional reluctance of Congress to alter the rules of a game at which its Members have been successful, and the partisan friction which inevitably develops, few expect that a major overhaul of the electoral process can ever be accomplished in one fell swoop.

More likely, it will proceed gradually, one step at a time. This should not inhibit our exploration, however, of what can and should come eventually.

We are encouraged by the long-range prospects for reform. As a direct result of the new disclosure law we now have a key element which was sorely lacking before: a growing base of factual information about how much is spent in campaigns, by whom, and for what.

With a rapidly developing expertise in evaluating this information, and the public interest and momentum which has been generated along the way, I think it is safe to say that the country will not have to wait another 50 years for the next major election reform bill.

A number of important proposals have already been introduced this year, including the bill offered by you, Mr. Chairman, S. 372.

While not all of these bills are before this subcommittee I would like to comment on several of them today—first, because this subcommittee and its chairman have in the past taken the initiative and provided important leadership in the entire area, and second because these specific measures can be viewed as representing the distinctly different stages by which Congress can approach the question of additional election and campaign finance reform.

I will confine my comments to the package of bills introduced by Senators Scott and Mathias earlier this week, S. 1094 through S. 1097 which would refine and to some degree extend current law; the Pastor bill, S. 372, to repeal section 315 and set limits on candidates' total spending, which may view as the logical next step beyond the 1971 act; and finally the bill introduced by Senator Hart on Tuesday, S. 1103, which is perhaps the most comprehensive and thoughtful approach to Federal campaign subsidies yet developed.

#### SCOTT-MATHIAS BILLS (S. 1094-S. 1097)

This package of four bills, each referred to a different committee are essentially intended as improvements on or extensions of the Federal Elections Campaign Act of 1971.

The NCEC publicly supported three of these proposals, with minor modifications, at the time the earlier legislation was under consideration. The first three, the NCEC believes, represent the baseline of further reform, the minimum of what Congress can and should do immediately.

1. Establish an independent Federal elections commission to administer the 1971 act, to serve as the single central repository for all campaign reports, and to investigate and prosecute violations (S. 1094).

This would correct the two major weaknesses of the new system: the illogical, tripartite system of reporting which resulted from the

House's rejection of the Senate provision for just such an independent commission, and the apparent unwillingness of the Justice Department to accept its responsibilities for enforcement of the law.

In addition, the bill would require candidates to establish one central reporting committee, and would make minor changes in reporting dates and the information required.

The NCEC strongly supports this measure as essential to full and complete public disclosure of campaign funds.

2. Repeal the broadcast "equal time" requirements for all candidates for Federal office (S. 1095).

The NCEC has long supported repeal of section 315 for Presidential and Vice Presidential candidates, to enable broadcasters to give major candidates free air time without being obligated to provide an equal amount of time to the strictly fringe or frivolous candidates.

We also believe that congressional candidates should be assured at least some access to the public airwaves at little or no cost.

You will recall, Mr. Chairman, that the NCEC's initial effort in this area was a proposal to provide all qualified congressional candidates a certain amount of air time at significantly reduced rates.

Nonetheless, we have reservations, which I think you share, about extending 315 repeal to the congressional level without some safeguards to protect candidates from arbitrary or unfair treatment by individual broadcasters.

The risks here are substantially greater, and the opportunity for proper and timely redress much more chancey, than at the much more highly visible Presidential level.

In thus endorsing the 315 provision of your bill, Mr. Chairman, and reserving judgment on the Scott-Mathias bill, we would also ask the committee's view on this.

What adequate safeguards, if any, do you think might possibly be written into the broader proposal which would allow Congress to confidently vest broadcasters with this tremendous power and responsibility of deciding who of some 1,000 Senate and House candidates would get air time and how much?

3. Allow candidates for Federal office two political mailings at reduced postage rates comparable to those available to nonprofit organizations (S. 1096).

The NCEC has long urged that Federal candidates be provided a specific number of free mailings in both the primary and general election.

While this is a more limited version of the indirect postal subsidy we have advocated, it has the same laboratory goals: to reduce both the cost of running for office and the tremendous advantage the incumbent has in the use of the frank, and at the same time to assure each household some exposure to all the candidates and campaigns in their State and congressional district.

4. Exempt political contributions of money from Federal gift tax provisions (S. 1097).

The NCEC agrees with the objectives of Senators Scott and Mathias: to overturn the ridiculous Internal Revenue ruling of last summer which permits large contributors to a single candidate to avoid paying the gift tax by spreading contributions of \$3,000 or less among dozens, even hundreds, of phony committees. It is an outrage to commonsense and is contrary to an entire body of tax law.

As you know, the IRS is now reviewing the gift tax matter and other aspects of the tax laws as they apply—or don't apply—to political contributions. It may ultimately fall to Congress to legislate in this area if fair and equitable solutions cannot be reached by agency regulation.

There are several approaches which are better than the current situation. One would be to exempt all political contributions from the gift tax, as S. 1097 would do. Another would be to require the payment of gift tax on all contributions over the specified \$3,000 limit, whether the gift ultimately benefits one candidate or many.

If Congress believes the proper answer falls somewhere inbetween and decides to allow specific exemptions, logic dictates that contributions to a group, organization or party supporting multiple candidacies should qualify for an exemption rather than multiple contributions by one individual to a single candidate. The reverse, contrary to all reason, is true today.

#### PASTORE BILL (S. 372)

First, this bill would repeal the section 315 equal time requirements for Presidential and Vice Presidential candidates. The NCEC strongly supports you in this effort, Mr. Chairman, as we stated earlier.

Secondly, S. 372 would set firm limits on the total amount of money which candidates for President, the Senate and House could spend in both the primary and the general election.

To many political observers this overall spending ceiling is the most appealing and logical followup to the media spending limits imposed by the 1971 act.

I expect there is already considerable support for such a bill because voters have come to view massive campaign expenditures as a major public disgrace as they have watched the political price tag spiral ever upward.

In the chairman's own home State of Rhode Island, for example the combined expenditures of the 1972 Senate candidates was well over \$1 million—approximately \$2 per eligible voter, even without a primary contest in either of the major parties.

This is one good example of how campaign spending takes on its own internal dynamics, regardless of whether or not an effective campaign might be waged by either or both candidates for less money. And there are worse examples, I can assure you.

The NCEC's principal reservation about overall spending limits in the past has been that it presents incumbents a tremendous temptation to seal themselves in office by unfairly limiting the exposure and activities a challenger needs to become known.

The Pastore bill obviously recognizes this problem and represents an effort to arrive at a limit which is both low enough to curb exorbitant expenditures and, at the same time, high enough to allow the unknown challenger to effectively reach the voters.

Senator PASTORE. On this question that was raised by Senator McGovern and several other people as well, and some members of the committee. Now under the 25 cents per voter, in Rhode Island each candidate will spend about \$168,000, which in my judgment is a comfortable amount. I don't think it is exorbitantly high. Yet I don't believe it is unnecessarily low.

You can conduct a very good campaign in Rhode Island for \$168,000. But you have got to admit that Rhode Island is small in area and is a very congested State. So it doesn't take much trouble to get around and meet people.

Not only that, if you go to a television station or a radio station, naturally it covers the entire State.

The question was raised—there are many States, for instance, Alaska, Tennessee, South Dakota, Wyoming, Montana—where the area to be covered is tremendously large and yet the population is very small. Still, whether you meet 5,000 people, 500 people, or 5 people, you have got to get there to meet them.

The question was raised if we take the formula of 25 cents per voter and stop there, the amount that would be allocated to a State like Wyoming would be about \$56,000; and that would be hardly enough, with today's prices, to conduct an effective campaign by the incumbent. It would be even harder on the part of the challenger.

What do you think about setting a minimum of \$100,000, \$150,000, \$200,000, whatever the case might be?

Take the State of Nevada, for instance. It may cost you quite a bit of money, even more so in Nevada, to campaign than it might in Rhode Island. And yet Rhode Island gets \$168,000, and Nevada will only get around \$83,000.

What would you do in a case like that? Would you set a minimum of, say, \$150,000 to \$200,000? What do you think of that as a way out?

Mr. McGovern thought you needed \$400,000, at least to run a good campaign in South Dakota. I think his figure might be a little bit large, although I haven't studied it.

What do you think of a minimum floor, let's say, \$150,000 or something like that?

Mr. HEMENWAY. This is one of the political exigencies that you must consider in the drafting of any bill like this because of the anomalies which you have described.

Senator PASTORE. If you take California, under my formula you would have \$3 million. That is a lot of money. You could run a good campaign.

Mr. HEMENWAY. But in the sparsely populated States—

Senator PASTORE. I would have a problem.

Mr. HEMENWAY (continuing). A challenger would be in very, very difficult shape. At the amount of money you mentioned in Wyoming, we would have the same public officers from that State elected and re-elected. They would be carried out feet first because they could never be effectively challenged.

Senator PASTORE. Your committee has dealt with this to some considerable extent. I would hope you could come up with some kind of suggestion.

Mr. HEMENWAY. For all of these arithmetic suggestions, we all have your very able chief counsel that our committee has worked with for many years.

Senator PASTORE. He is a smart boy. After all, he has a lot to do. I am trying to delegate some of this to you.

Would you do it? If you can't do it, you can't do it. Give it a try. I am not mandating you to do it, but it would be helpful if you could

come up with some kind of suggestion. You have studied these figures of contributions all over the country.

Mr. HEMENWAY. That's correct.

Senator PASTORE. You know pretty much about what people have spent.

Mrs. KING. May I ask a question, Mr. Chairman? Are we correct understanding that by your bill, for Rhode Island, for example, would provide \$168,000 for the primary and another \$168,000 for the general?

Senator PASTORE. Yes.

Mrs. KING. That considerably broadens the amount of money that Senator McGovern was speaking about in South Dakota, or in Wyoming, if you consider the fact that a candidate through both the primary and the general has separate limits. Is there a prohibition against the spending of the money if he does not have a primary opponent?

Senator PASTORE. No.

Mrs. KING. If you could raise it, you could spend \$320,000 in Rhode Island.

Mr. HEMENWAY. That's right. If you have a primary contest, you come under the limit. If you don't have one, it can't be carried over.

Mrs. KING. That should be considered also.

Senator PASTORE. I don't think it should be. I think the primary should be kept separate from the general election. A separate limitation for each, with no carryover.

Mrs. HEMENWAY. I think most candidates will encourage a primary fight under those conditions.

Senator PASTORE. Even if you can carry it over. I have heard that we were looking around for token opposition. I have heard those stories in the hope at least they could spend all that money for publicity in the primary period. I don't go along with that. I don't go along with that at all. It has got to be a real contest.

All I am talking about is providing a sufficient amount of money, not an exorbitant but a fair amount, which would allow the public to have the opportunity of seeing the candidates and hearing what they have to say.

This means having headquarters in various parts of the State. In my State, all you need are two or three headquarters. When you get yourself into Woodstock, Newport, and Providence, you have covered it. You get out there in South Dakota and you have got quite a spread to cover. Then their argument is you have to use a plane to get around and that is expensive.

In my State, you can use an automobile. You will get around enough.

Mr. HEMENWAY. You can shake every hand in the State of Rhode Island, Senator.

Senator PASTORE. I do.

Mr. HEMENWAY. If you start early enough.

Senator PASTORE. Will you give it some thought?

Mr. HEMENWAY. Over the years, I am sure you have. And certainly we will try to come up with a suggestion for a minimum floor for you.

Senator PASTORE. Not everybody is for me, but they know who I am.

Mr. HEMENWAY. To avoid a major pitfall of the old Corrupt Practices Act, which also had spending limits, your measure provides an



automatic escalator which will raise spending limits to reflect actual cost of living increases—or decreases, should we ever see one again.

We would suggest further that the key to effective limits is enforcement, and the key to enforcement is full disclosure. The NCEC recommends that the necessary companion to any ceiling legislation is the creation of an independent Federal Elections Commission, which we discussed earlier.

Such Commission, rather than the GAO or the Justice Department, would then be responsible not only for the administration and enforcement of the disclosure laws, but the spending limits as well.

#### HART BILL (S. 1103)

The bill recently introduced by Senator Hart takes a very significant step beyond all the measures we have thus far discussed.

It is concerned with the other side of the campaign spending coin: While experience demonstrates that money alone does not necessarily win elections, it is obvious that the absence of adequate funding can certainly assure defeat.

Worse than that, inability or unwillingness to rely on private money sources can and does discourage many an able candidate from even entering a race for public office.

While there may be some truth to the argument of subsidy opponents that the ability to raise money is an important test of a candidate's viability, there are very definitely limits to how far that premise can be stretched.

Unless we are willing to allow politics to become the sole preserve of the rich or the handmaidens of the rich, we must begin to move toward at least minimum public subsidy for Federal candidates. The Hart bill does that and more. We were privileged to work with the Senator and his staff in the development of this legislation, and we have been tremendously impressed by the amount of time, energy, and effort which went into it.

As Senator Hart himself has stated, it is not a perfect bill, nor perhaps even as good as it may yet be. Nonetheless, this measure represents the most careful effort to achieve a reasonable balance between complex, competing interests, and to find workable solutions to heretofore unanswerable problems, that the NCEC has seen to date.

The objective of the Hart bill is simple: to provide an adequate public subsidy for serious congressional candidates who wish to run without dependence on private contributions.

The bill does not apply to the Presidency, primarily because there is agreement that the tax checkoff, which we discussed earlier, should be given a fair and realistic chance to work. Nor is the congressional subsidy mandatory for all candidates. Those who choose to take the public subsidy must meet certain requirements and are bound by strict regulations, including a spending ceiling, while those who elect private financing proceed just as they now do. The bill would not alter the disclosure requirements or media limits of the 1971 Campaign Act, nor the political tax credit-tax deduction provisions of the 1971 Revenue Act.

While we hope that Members of Congress and other interested persons will look over the bill carefully, I would like to touch on some

of the major provisions. No one is firmly wedded to each and every one of these points. Nonetheless, I would stress again that every effort has been made to deal with some very knotty problems. The result is a rather unique product which seeks to strike a balance which will assure serious candidates an adequate subsidy, protect the rights and opportunities of minor and new parties without giving the frivolous candidate a free ride, protect the public against waste or fraud, while at the same time, limit candidate spending and reduce the influence of and dependence on large private contributors. At the very least, this bill offers Congress an excellent point from which to consider the question of public campaign subsidies. We commend it to you for study.

1. Under this bill, candidates who choose public funding would be eligible for a Federal subsidy in both the primary and general election. Mixing of private and public methods would not be permitted. If a candidate elects the public route in the primary, he could not go to private funding in the general, and vice versa.

2. The amount of the subsidy would be determined by a cents-per-eligible-voter formula. The initial figures suggested, for major party Senate candidates is 10 cents per eligible voter in the primary and 15 cents in the general. Minor and new party candidates—determined by previous election record—would be eligible for a smaller percentage of the amount allowed major party candidates.

In addition, candidates would be allowed to raise a small amount of private funds in individual contributions of no more than \$250. Minor party and new party candidates would be allowed to raise proportionately more private funds in order to bring them up to the total amount allowed major party candidates.

3. In each case, a spending ceiling would apply to all publicly subsidized candidates equal to the amount of the subsidy received plus the amount of private money they are permitted to raise. Neither the spending ceiling nor the individual contribution limit of \$250 would apply to candidates choosing the private financing route.

4. A seven-member, bipartisan board would be created within the Treasury Department to administer the subsidy, to dispense candidate funds on a periodic basis, and to audit and review the central bank accounts which candidates would be required to establish.

5. To qualify for the public subsidy, a candidate would have to fulfill State election requirements, agree to comply with the act and supply certain required information, and file with the board a security deposit equal to one-fifth of the subsidy he is eligible to receive. This security deposit would be forfeited if the candidate failed to win 10 percent of the vote. The entire subsidy would have to be repaid if the candidate failed to win 5 percent of the vote. Fines and criminal penalties are also provided for violation or failure to comply.

The bond requirement to deter frivolous candidacies and the treatment of minor party candidates are at once the most sensitive and most difficult aspects of the subsidy issue. We would stress here again that it is not the specific numbers we are concerned with, but rather the method of approaching the problem. The percentages and dollar amounts obviously are subject to change if the concept is sound.

6. A candidate would be permitted to raise his bond or security deposit in private contributions of up to \$250. The funds raised from

individuals for this purpose would not be counted against the candidate's total spending limit. If the candidate succeeds in winning over 10 percent of the vote, the deposit would be returned by the board to the individual contributors.

7. Independent political activity by individuals or organizations on behalf of a subsidized candidate would be permitted, would not be included in the candidate's spending ceiling, but would be limited to expenditures of no more than \$250 per candidate.

Objections will undoubtedly be raised that the machinery of this legislation is too complicated to understand, much less to work. I expect that this argument has been used against every major piece of legislation ever offered. I would point out that it was a major bone of contention regarding the 1971 disclosure legislation, and we think it is obvious that that machinery has worked, better perhaps than we ever hoped it might.

It is impossible to estimate at this time what such a subsidy would cost, for we have no idea how many candidates would choose to apply for it. Nonetheless, I think even the most extreme estimates would fall within the price we now pay for many of our weapons systems, battleships and aircraft. Certainly the integrity of the electoral process is of equal importance.

In urging the committee to give this measure serious consideration, we again thank you for this opportunity to present our views on an issue which the NCEC ranks high on the list of national priorities.

Senator PASTORE. Thank you very much, Mr. Hemenway and Mrs. King. You have always been very, very helpful.

Any questions, Mr. Hart?

Senator HART. Mr. Chairman, it will not surprise you if I thank Mr. Hemenway for his comments.

Senator PASTORE. It would surprise me if you didn't.

Senator HART. But more importantly, to thank him for his counsel and advice and the committee for its long concern. I would be utterly graceless to tell you how persuaded I am by your testimony.

Mr. HEMENWAY. It was a great pleasure working with you, Senator Hart, and your staff.

Senator PASTORE. I understand you had some trouble getting in?

Mr. HEMENWAY. Very bad weather in New York, very bad.

Senator PASTORE. They tell me the sun is out here. Thank you very much.

Senator HART. Mr. Chairman, may I offer for the record the bill that has been the subject of discussion?

Senator PASTORE. Positively.

Without objection, so ordered.

We will meet again at 10 tomorrow morning.

(Whereupon, at 12:55 p.m., the hearing was adjourned, to reconvene at 10 a.m. on Friday, March 9, 1973.)

(The information referred to follows:)

Mr. HART. Mr. President, I send to the desk for appropriate reference the Congressional Election Finance Act of 1973, a bill to provide adequate public subsidies for primary and general election campaigns for the Senate and the House of Representatives.

The bill is not designed to cure all the defects and strains in the present process of election campaigns. Its primary goal is to permit serious candidates to avoid reliance on large private contributions.

At this point, I ask unanimous consent that a copy of the bill, together with a short memorandum describing its operation, a section-by-section analysis, and a table indicating the subsidies afforded Senatorial candidates from each State, be printed in the Record immediately following my remarks.

The PRESIDING OFFICER: Without objection, it is so ordered.  
(See exhibits 1, 2, 3, and 4.)

Mr. HART. Mr. President, in 1971, under the dedicated and effective leadership of the senior Senator from Rhode Island (Mr. PASSONIS) the Congress finally cut the Gordian knot of campaign regulation and passed the first major revision of our campaign financing laws in almost half a century, the Federal Election Campaign Act under which candidates operated in 1972. Hopefully, we can build upon this landmark without waiting another half century. Certainly the news stories of the past 12 months and the public disgust they have generated should convince us that it is time we traveled further down the road toward a healthy political climate at campaign time.

Teddy Roosevelt and Harry Truman both concluded, after serving in Government at every level, that we should subsidize our election campaigns. I believe they were right. Let us not beat about the bush. As I emphasized during the so-called ITT hearings on Mr. Kleindienst's nomination at Attorney General last year, big money contributors can only be relieved of excessive influence—or what is as bad, the appearance of influence in the eyes of a wisely distrustful electorate—if politicians are relieved of excessive dependence on big money contributors.

I know that many will regard this as a new raid on the Treasury by greedy office holders. But I think many people, upon reflection, will realize that this will be as wise an investment as a democracy can make. When a politician's success depend on a combination of dollars and votes, the Nation is clearly less democratic than it would be if victory depended on votes alone. Congress annually disposes of a Federal budget in the hundreds of billions of dollars and takes actions with tremendous impact on a trillion-dollar economy, not to mention their impact on the incalculable values of our health, safety, and liberty. Surely in that context public campaign subsidies would be a growth stock for everyone.

Let me indicate briefly what this bill involves, and what it does not involve. First, the bill does not force every congressional candidate to operate under its provisions. Instead, it offers a two track system. It would still be possible for a House or Senate candidate to refuse Federal moneys and to run a campaign in the traditional manner raising the money himself under the limits of existing law. But that candidate in all likelihood would have to be prepared to be labeled as the beneficiary of big-money contributors.

Second, the bill would not apply to presidential elections in regard to which Congress has already endorsed the general concept of publically arranged financing by enacting the tax checkoff provision of the 1971 Revenue Act.

Third, this bill does not seek to tell the candidate how to run his campaign. He is left free to "do his own thing."

What the bill is designed to do is to provide a subsidy adequate to run without further resort to private financing. Senatorial candidates would receive 10 cents for each voting-age person in their State in the primary election and 15 cents in the general. There would be minimum amounts for the smaller States.

These amounts may need to be adjusted in light of hearings, but based on a range of recent expenditures by successful candidates, I believe they would provide enough money for thorough and effective, if not extravagant, campaigns. Nevertheless, in order to permit some "play at the joints" for public involvement and individual participation in the campaign process beyond the ballot box, subsidized candidates could also raise small amounts privately within strict limits. Senate candidates might gather private funds up to 2 cents per voting age resident in the primary and 3 cents in the general. The table I have offered for the Record show the amounts—rounded off—this would provide in each State for subsidy and for all expenditures permitted if private funds were also used.

House candidates would receive a subsidy of 14 cents per voting-age resident in the primary election and 20 cents in the general. They could additionally raise private funds up to 3 cents per person in the primary and 5 cents in the general. Since most districts cluster around 300,000 voting-age population, the typical House candidate would receive a primary subsidy of \$40,000 in the primary and \$60,000 in the general election. If they used private funds, they could spend a total of \$50,000 in the primary and \$75,000 in the general.

The possibility of providing subsidies which varied among House districts and also the arguments for providing primary subsidies as large as those in the general election were considered and have merit, but I concluded that, on balance, the disadvantages of each outweigh the rationale for them.

Finally, if a candidate does supplement his subsidy with private funds, no individual or organization may give more than \$250 to a Senate or House candidate.

Any candidate who willfully violates the basic provisions of the act is subject to a fine of up to \$50,000 or the total amount of his subsidy, whichever is greater as well as up to 5 years in jail.

Minor party candidates would be eligible for Federal funding according to ratios based on the party's previous performance at the ballot box.

Participation is all or nothing. Those receiving Federal funds in the primaries must remain under the act through the general election.

The problem of the frivolous candidate or the political charlatan is one that has always plagued proponents of Federal campaign financing. How do you screen out publicity seekers or other frivolous candidates who might easily be attracted by more Government campaign moneys.

Under my bill no candidate would be eligible for the Federal money until he or she:

Had met all State filing and petition requirements for candidacy.

Had sworn to comply with the act.

Had filed a security deposit amounting to 20 percent of the Federal money the candidate is eligible for.

How does the candidate get the security deposit? He must raise it in small amounts—\$250 maximum from each source—from a sizable number of citizens.

If the candidate fails to get 10 percent of the vote in the next election, the security deposit is forfeited to the Government.

If he fails to get 5 percent of the vote, he forfeits the security deposit and, in addition, is personally liable for the return of all Federal campaign funds disbursed to him.

Candidates receiving more than 10 percent of the vote must return the security deposits to donors.

In developing this bill, I have had extremely helpful assistance from a number of private groups and individuals with whom I have worked closely for several months. In particular, Common Cause provided a great number of provisions based on their own work in this area which have been incorporated in this bill and many other valuable suggestions, as well as the analysis based on their monitoring of the 1971 act. The National Committee for an Effective Congress also provided invaluable counsel and the benefit of their long experience in this difficult field.

Neither group, nor anyone else who worked with me on this bill is committed to each and every provision. Nor am I. It is certainly not offered as the optimal solution. Any venture into this morass involves endless hard policy choices, close constitutional questions, and innumerable practical problems to be met. I hope prompt hearings will be held to explore all of these issues further. But I believe this is a plausible scheme which can serve as a vehicle for discussion in the months ahead. It is a reasonable effort to pass constitutional muster under the decisions of the Supreme Court involving the test of equal protection for varying treatment of different parties. And I also believe it meets the requirements of the first amendment.

Above all, it is time Congress took the lead in renewing public interest in public financing of our congressional elections. This bill is an attempt to make a beachhead toward that goal.<sup>1</sup>

## EXHIBIT 2

### "CONGRESSIONAL ELECTION FINANCE ACT OF 1972—SUMMARY OF THE ACT

#### "I. BASIC APPROACH

"The major purpose is to permit 'serious' candidates for Senator or Representative to run without reliance on private contributions, if they so desire.

"It is also hoped that, over time, the very fact that one candidate runs on public money while his opponent is running on large private contributions will itself become a campaign issue. There should be gradually increasing pressure for candidates to take the public-funding route.

<sup>1</sup> See p. 13 for the bill.

"A secondary goal is to show that campaign expenditures have spiraled out of hand; to demonstrate that informative, effective campaigns can be run for less than is often spent today.

"Also, while the subsidy is intended to be adequate for a thrifty campaign, some play is given to controlled private financing. For major party candidates this would amount to only one-fifth of their total allowable expenditures. The size of the contributions would be strictly limited. This 'hybrid' approach leaves room for the positive political involvement of fund raising. It also eases the problem of giving minor party candidates smaller subsidies. The minor party candidate can be permitted to offset this difference by raising more private funds in such amounts that the total expenditures permitted both minor and major party candidates remains equal. Here, the Act demonstrates a way of eliminating the danger or appearance of undue influence by limiting the amount of individual contributions.

## "II. OPERATION

"The Act would operate as follows:

"1. A separate fund is established in the Treasury and a Board is created to administer the Act and to dispense subsidies. It would be a seven-member, bipartisan one, with staggered terms.

"2. The Board is given general powers to develop reporting methods and implement the Act with more detailed regulations. *To the greatest extent possible*, the Board is to utilize the reporting, filing and accounting procedures and the information required by the 1971 Campaign Reform Act, in order to eliminate duplication and minimize paper work.

"3. The Board has subpoena power, can conduct investigations of possible violations and can seek court injunctive relief. A candidate aggrieved by Board action can seek a prompt hearing and Court review.

"4. Candidates 'qualify' for subsidies by filing a sworn undertaking to comply with the Act and to pay a penalty if they fail to win 10% of the vote in the election for which the subsidy is received—that is, 10% of all the votes in their party's primary if it is a primary subsidy, and 10% of the vote for all candidates if they receive a subsidy for the general elections. If they fail to win even 5% they are liable to repay the full subsidy. These two provisions, would deter frivolous or crank candidates without substantial support.

"Second, they file a security deposit which is forfeitable for the payment of this penalty. This security deposit is in the amount of one-fifth of the subsidy they are eligible to receive, with a minimum of \$3,000. (See No. 8 for limitations on how this deposit can be raised). However, a successful primary winner can roll over his security and use it for his security in the general election without increasing the amount, even though the general election subsidy is somewhat larger.

"Third, they submit proof they have qualified for the ballot under state law.

Fourth, they supply information on contributions and expenditures in connection with their candidacy made prior to that date. Expenditures made in the 18-month period preceding the date of the general election, or before then for goods or services used in that period, and contributions used or still available for such expenditures are covered. This provides a cut-off for determining how far back, before he files, a candidate's private expenditures and contribution will be counted in applying the contribution limits and included in his overall spending limits.<sup>3</sup>

"5. The Board notifies eligible candidates. It deposits subsidy installments monthly in a separate account which candidates must set up. The Board may pay the money in uneven amounts upon a reasonable showing by the candidate for such request.

"6. The candidate must open a single Campaign Account for the deposit of the subsidy and of all private monies raised. The Board is given periodic reports on all deposits and withdrawals including the source and amount of each contribution. Withdrawals can only be made by the candidate or any of up to three individuals he designates, who also share legal responsibility with him for compliance with all provisions of the Act.

"7. For calculating subsidies, the Act recognizes three categories of candidates: 'major party': 'minor party' and all others.

<sup>3</sup> For a November, 1974 election, the period runs back to May 6, 1973. If a Senate candidate files for subsidies on January, 1974, he lists expenditures made since May 6, 1973, or more before then for goods or services to be used in connection with the campaign after May 6. He also must list contributions made since May 6, 1973, and contributions made before then which were used or are still available for such expenditures.

"In Senate races, major party candidates get a subsidy of 10¢ per capita (voting age population) in the primary and 15¢ in the general election. In addition they may raise privately 2¢ per capita for the primary and 3¢ for the general election.

"In Michigan, that primary subsidy would amount to \$567,500, total primary expenditure would be limited to \$705,000. In the general election the subsidy would be \$380,000; the total expenditure permitted would be \$1,060,250.

"For House races, the subsidy would be 14¢ per capita in the primary and 20¢ per capita in the general election. In addition, candidates could raise 3¢ per capita for the primary and 5¢ per capita for the general election.

"In 'typical' District (with 300,000 voting age population) this would mean a subsidy of \$42,000 in the primary with total expenditure of \$51,000. In the general election, the subsidy would be \$60,000; and the total expenditure permitted would be \$75,000.

N.B. Any candidate who qualifies to run in the primary of a major party is entitled to these levels of subsidy in the primary.

"8. The statute makes explicit that the total expenditures a candidate makes in connection with his campaign may not exceed the sum of (a) the subsidy for which he is eligible, and (b) the amount of private funds he is permitted to raise.

"9. The following limitations are placed on the amount of any individual contribution or independent activity undertaken to influence the outcome of an election:

"A. A 'person' includes any individual, corporation, partnership, or association, etc. Its definition would include unions.

"B. 'Contribution' is broadly defined to include (1) any gift, loan or guarantee of money or anything of value, (2) payments of compensation for personal services which are rendered to the candidate or payment for goods used by the candidate, (3) furnishing goods or services without charge or at less than the usual rate, or, (4) expenditures made in any other activity undertaken independently of the candidate's campaign to promote his candidacy or oppose other candidates. The definition of "contribution does not include: (1) personal services provided without compensation by individual volunteers, (2) internal communications by an organization solely to its membership and their families, (3) communications to the general public by an organization which is solely an issue-oriented group, where the communication neither endorses nor opposes particular candidates, and (4) normal billing credit not exceeding 30 days.

"C. For purposes of the limit imposed on the amount of contribution from any single source, all contributions—and also the candidate's use of his own and his immediate family personal resources—are treated the same. No 'person,' whether an individual or organization can contribute in any way, and no candidate or his agent can accept amounts which, in the aggregate exceed \$250. Contributions made for use in posting the security deposit, for use in the primary or the general election campaign, and "contributions" in the form of expenditures undertaken independently of the candidate's campaign are cumulative. No person can give, in any of these forms combined, more than \$250 to a candidate.

"D. Similarly, a candidate's own resources and those of his immediate family cannot in the aggregate (that is, combining amounts from the candidate's own funds, from his children or a sibling, etc.) exceed \$250 for his primary and general election campaigns combined. However, he is allowed to use an additional \$250 for the security deposit.

"E. However, for purposes of the limit on the total private funding, a candidate may use, two types of contributions are not counted. First, the amount posted for security—since it cannot be used in the campaign—is not included.

"Second, 'contribution' in the form of expenditures for the independent activity on behalf of a candidate (as opposed to resources in some form or other put at the campaign's disposal) which are not undertaken at the suggestion or request of the candidate are also excluded. (Although as just noted above, they are covered by the limit on individual contributions, and for that purpose are cumulative with amounts turned over to the campaign.)

"There is an anti-pooling provision, so that an organization which itself is limited to \$250 worth of independent activity, could not also arrange for all its members to expend the \$300 permitted each of them for independent activity as a fractional payment of, say, an expensive broadcast. To permit that would, in effect, permit the organization to swing the same clout as if it had collected volun-

"\*A broadcast to the general public put on or paid for by a business organization or union would not be exempt.

tary payments and then purchased a \$80,000 spot advertisement as its own independent activity.<sup>3</sup>

"10. In addition to limitations on private individuals and organizations, there is a special provision for fund-raising by political parties. In their case, the premise is that because they are a part of the essential political process itself, they may serve as a pooling mechanism for private resources without our worrying about their having undue influence on their party's candidate. This provision is limited to campaign assistance in the general election only. National and state party committees must each set up a single bank account for this purpose, which shall be audited by the Board, as are the candidates' campaign accounts. No funds can be transferred to it from general party coffers. The party may only deposit in this account contributions from individuals or other organizations in an amount not exceeding \$100 per person or organization. From this account the national or state level party committee may, in their discretion, contribute to their nominees for the House or Senate in varying amounts for each, up to the total of private funds each candidate is permitted to use in that election. Such funds are included in his over-all expenditures.<sup>4</sup>

"In other words, in the case of parties, the limit is put on the intake side; no one can contribute more than \$250 to these special party Congressional campaign accounts. Hence, they cannot be used as a funnel for a wealthy individual nor can the contributions be earmarked for a particular candidate. On the other end, the party can give the candidate more than the individual contribution limits placed on direct givers. Senator Hart could get the entire \$200,000 permitted him in private funds from the Michigan or National Democratic parties. In the case of other organizations, this bill imposes no limit on the amount which members may give to the organization's political fund, but that organization, in turn, may only make the amount of contribution to a candidate permitted any individual contributor.

"11. A 'major party' candidate is one whose party won 25% of the vote in a 'determining' election (the election used by the Act for the party's track record).

"12. A minor party is one which won between 10% and 25% of the vote in any 'determining' election. A minor party candidate is entitled to a minimum subsidy of one-fifth the subsidy given a major party candidate. He can receive a greater subsidy based on the ratio of the vote his party received in the last general election for that office to the votes received by the major party candidate with the lowest vote in that election.

"13. Any candidate not qualifying as either a major or a minor party candidate would receive a minimum subsidy equal to 1/10th of the subsidy given a major party candidate. He too could receive a greater amount based on a ratio of his party's vote in the last general election for that office to the votes obtained by the major party candidate with the lowest vote in that general election.

"14. However, the difference in the subsidy given to major party candidates and other candidates is mitigated by three provisions:

"First, minor party candidates may raise proportionately more private funds, as indicated above, so that the total resources each may expend remains equal.

"Second, if the minor party candidate's showing in the election in question is of major party proportions—25% of the vote—then he is entitled to a post-election supplement increasing his subsidy after-the-fact to the extent he has outstanding campaign debts.

"Third, the candidate can invoke any one of several 'determining elections' to establish major party status. A House candidate could rely upon whichever was his party's best showing among the last House race in that District, or the

<sup>3</sup>The bill was prepared with First Amendment consideration in mind. Nonetheless, to prohibit a direct contribution for a \$80,000 TV spot because of the danger of undue influence, but then to permit the supporter to decide on its own to purchase the time and put no such an ad is to exalt form over substance. Putting limits on the amount of independent activity anyone may undertake, but not including that expenditure in the candidate's limit on private financing in his campaign seems the best compromise to meet competing considerations. It controls the influence of any group or person. It avoids the dilemma of either giving the candidate a veto power over such independent activity (as in the case under the current election law) or putting the candidate at the mercy of whomever carries on such independent activity, even if he would rather use the amount of private financing he is permitted in other ways. Thus it preserves to everyone some right of political expression which they can undertake independently, regardless of whether the candidate has already used the amount of private funds he is permitted and regardless of whether the expression they wish to make on the candidate's behalf 'fits in' with its campaign plans.

<sup>4</sup>All of these provisions apply only to party financing of candidates subsidized under this bill.



statewide vote in the last gubernatorial campaign or the nationwide vote in the last presidential campaign. A Senate candidate could use either of the last two.

"14. Participation is all or nothing. If someone receives subsidies in a primary, he must remain under the Act and is limited in the amount of private funds he can use in the general election. Conversely, if he has operated outside of this Act in the primary, he is ineligible for subsidies in the general election.

"15. There are various safeguards to promote compliance. Prior to receiving his second and subsequent subsidy installments, the candidate must make available to the Board an account of his contributions and expenditures since the previous report. (But remember the Board shall utilize, to the extent possible, information in the form supplied under the 1971 Act). In addition, the Board requires keeping records available and does a complete audit of each candidate's campaign financing after the election. Punishment for violation in four instances—willful violation of the expenditure or the contribution limits, willful misuse of subsidy funds, or willful falsification of information—can be a fine up to the full amount of the subsidy received, and up to five years in jail. Other violations could receive a fine not to exceed \$10,000 and a jail sentence of no more than three years."

### EXHIBIT 3

#### "SECTION-BY-SECTION ANALYSIS OF CONGRESSIONAL ELECTION FINANCE ACT OF 1973

"Section 1. *Title*:

"Section 2. *Purposes*:

"To provide adequate financing for candidates without regard to the private resources available to them;

"To prevent undue influence by the wealthy and the opportunity for such influence which diminishes public faith in the political system;

"To determine the degree to which present campaign expenditures are excessive;

"To reduce pressures on candidates to become beholden to large contributors.

"Section 3. *Definitions*.

"Board—The Congressional Election Finance Board which administers this Act.

"'Campaign Expenditure' and 'Campaign Expenditure Period'—The 18-month period preceding the date of the general election for the office sought is the expenditure period. Any expenditure in connection with the campaign made during that period or prior to it for goods or services to be used within the period is a campaign expenditure.

"'Candidate'—someone qualifying under state law for the primary or the general election ballot in a House or Senate race.

"'Candidate Campaign Account'—is a single bank account into which the candidate must deposit all subsidies and contributions.

"'Congressional Office'—the office of Senator, Representative, Resident Commissioner or Delegate.

"'Contribution'—is defined to include any:

"(1) payment, gift, loan or guaranty to a candidate's campaign;

"(2) payment for personal services rendered to the campaign;

"(3) payment for any other services or any goods provided to the campaign;

"(4) provision of goods or services at less than full value to the campaign;

"(5) independent activity carried on apart from the campaign

made for the purposes of influencing the results of a primary or general election. Categories 1 through 4 cover alternative ways of putting campaign resources at the disposal and discretion of the candidate and his assistants. Category 5 covers campaigning done unilaterally on behalf of the candidate. All five categories are treated the same for purposes of individual contribution limits, and they are all aggregated for that purpose. However, category 5 is treated differently in computing the candidate's permitted amount of private financing beyond the subsidy. (See sections 12 and 13, *infra*.)

"Volunteer services, internal communications by an organization to its members communications by and issue group to the general public which do not endorse or oppose specific candidates, and normal billing credit not more than 30 days, are all excluded from the definition of contributions.

"'Fund'—the campaign subsidy fund established in the Treasury and administered by the Board.

"Major Party"—a party (or independent candidate) receiving at least a quarter of the vote in any 'determining election.'

"Minor Party"—a party or independent candidate receiving between 25% and 10% of the total vote cast for that office in any 'determining election.'

"Determining Election"—in a House race, either the last general election for that office OR the last gubernatorial race in that state OR the last presidential election. The party candidates in a primary or general election can invoke the party's showing in any one of these three previous elections with regard to House races; either the previous presidential or gubernatorial race can be used to establish major or minor party status in a Senate race.

"Thus in a State where the Republican gubernatorial candidate had won at least 25% of the vote in the last election, every Republican candidate in a primary or general election for a House seat from that State would be entitled to receive major party level funding, even though the Republican candidate had not won 25% of the vote in the House race in a particular district in the previous election.

"Party Campaign Account"—a single bank account established by the national committee or a state central committee of a political party for receiving contributions to aid subsidized Congressional candidates.

"Person"—an individual, any form of business association, other organization or group of individuals lawfully entitled to make campaign contributions. An organization and parent, subsidiaries, affiliates and regional branches constitute one 'person.'

"Personal resources"—funds from the candidate and his immediate family.

"Immediate family"—parents, children, siblings, dependents, spouse, and in-laws.

"State"—D.C. Guam, Puerto, the Virgin Islands and the fifty States. This and other provisions indicate that candidates for Delegate or Resident Commissioner are treated the same as House candidates.

"Voting age population"—the resident population 18 years or older of a State or district, to be certified annually by the Department of Commerce.

"Section 4. *Establishing the fund.*

"This section tries to make adequate funding available without locking in the Appropriations Committees to its expenditure.

"The authorizing legislation, itself, establishes a sizeable fund in the Treasury. However, its transmittal to candidates acquires further appropriation legislation

"Section 5. *Establishment of the Board.*

"A seven member bipartisan commission is created with staggered six year terms. Members elect a chairman to serve for two years, and the first chairman appoints the staff. Three members comprise a quorum. All members have the status of Executive Schedule Level III, which is the one held by the chairmen of regulatory commissions. The Board makes annual fiscal and operational reports to Congress and to the President.

"Section 6. *Board duties and powers.*

"Subsection (a) requires the Board to develop appropriate forms, bookkeeping and reporting methods, and a filing and retrieval system. The Board must preserve reports filed with it and keep them available for public inspection.

"Subsection (b) directs the Board to consult with the Senate Secretary, the House Clerk, and the Comptroller General in order to utilize to the greatest extent possible the reporting filing and accounting procedures used to comply with the 1971 Campaign Reform Act of 1971. The subsection expressly provides that if possible the Board shall utilize the reports furnished under the 1971 Act and not require additional filings. It might merely obtain copies of such filings from the officers administering the 1971 Act. This eliminates duplication, minimizes paperwork and permits the public and media to familiarize themselves with only one basic reporting system for Senate and for House races.

"Subsection (c) directs the Board to conduct a final audit of all subsidized campaigns and report the results. It also authorizes the Board to issue rules and regulations, to require reports and records and to conduct interim reviews. Subsection (d) requires a hearing before any determination that a candidate has received more money from the fund than he was entitled to and must repay it. The same is true with regard to a proceeding for forfeiture of security. The statute of limitations on recouping overpayment is one year.

"Subsection (e) give the Board subpoena power.

"Subsection (f) directs the Board to report violations to law enforcement authorities.

*"Sections 7-14—Section 7 through 14 set forth the basic financing scheme: Section 7 prescribes how one qualifies for subsidy. Section 8 provides the mechanism for payment from the fund. Section 9 prescribes how the candidate may make payments from his separate candidate account. Section 10 states the formula for determining the subsidy to which each candidate is entitled. Section 11 sets the limits on the private monies which can be added to the subsidy. Section 12 limits individual contributions. Section 13 indicates expressly that the amount a candidate may spend equals the sum of this subsidy and the private funds he is permitted to raise. Section 14 provides a special mechanism for larger amounts of aid from political parties. The specific operation and interaction of these sections are as follows:*

*"Section 7. Eligibility for Assistance.*

*"Subsection (a) requires filing a sworn statement, a security bond equal to one-fifth of the subsidy to which he is entitled and proof of qualification for the ballot under State law. The statement obligates the candidate to compile the records and reports required and to repay all amounts received from the Fund in excess of that to which he is entitled. He also agrees to forfeit his security if he fails to receive 10% of the vote in the election for which he is receiving assistance. (That is, 10% of all votes cast in his party's primary, or 10% of the vote cast for all candidates in a general election, as the case may be) and to be personally liable for the repayment of all of the subsidies he has received if his vote falls below 5%. A separate sworn statement details the source and amount of contributions received and the campaign expenditures made prior to the date of the application. The candidate must list separately such information for all contributions used to post the security deposit. If the deposit is not forfeited, the Board returns those contributions to the donors.*

*"Subsection (b) prohibits candidates who have previously failed to comply with the Act from receiving further subsidies.*

*"Subsection (c) prohibits candidates from using unrestricted private funding in the primary, i.e., not coming under this Act, and then receiving subsidies in the general election. He must have either received primary subsidies, or not run in a primary, or have been ineligible because he ran unopposed in his party's primary.*

*"Subsection (d) prohibits candidates receiving primary assistance from then running in the general election outside this Act, i.e., with no restriction on private assistance.*

*"Subsection (e) requires prompt notification by the Board that a candidate has qualified and of the amount to which he will be entitled in the primary, and if he is nominated, in the general election.*

*"Section 8. Payments from the Fund.*

*"Subsection (a) provides for payments of the subsidy by the Board in approximately equal amounts monthly into an earmarked account in an FDIC bank, during the period beginning at the time of notification of eligibility. Post-election supplements are paid within 30 days of the election.*

*"Subsection (b) provides for payments in unequal amounts upon request and a justification by the candidate.*

*"Subsection (c) provides that, at the time a primary candidate becomes eligible to receive transfers from the Fund, if no other candidate has qualified under state law, the applicant shall initially receive only one-third of the subsidy for which he is eligible in such installments. If prior to the filing deadline, at least one other candidate qualifies under state law, then the Board shall transfer the remaining two-thirds of the applicant's primary subsidy in similar installments.*

*"Subsection (d) requires the Board, if it determines there are insufficient monies in the Fund, to pay each candidate the appropriate subsidy, to so advise the candidates and the Congress with recommendation to the latter of the necessary supplemental appropriation.*

*"Subsection (e) requires the Board in such cases to reduce pro rata the subsidy to each candidate and notify them of the reduction by registered mail. However, the amount which a candidate would then be permitted to raise privately under section 11 would be increased by an amount equal to the reduction in subsidy.*

*"Section 9. Payment from the Candidate's Account.*

*"Subsection (a) and (b) require the candidate to establish a single campaign account and to deposit therein all subsidies and contributions received. The Board receives statements identifying the amount and source of all contributions deposited and indicating all withdrawals.*

"Subsection (b) limits the power to withdraw from this account to the candidate and, at most, three other individuals he designates who also each are responsible for compliance with all provisions of the Act.

"Subsection (d) prohibits payment, except staff salaries, for any goods or services without an invoice from the payee and a sworn statement certifying the charges are normal and certification shall be preserved by the candidates for inspection and copies shall be furnished upon request to the Board.

"Section 10. *Determination of Amounts Payable.*

"The amounts are calculated under a formula of so many cents per voting age resident of the State or House district in question. Subsection (a) provides that a major party primary candidate for Senate nomination would receive the greater of:

"10¢ multiplied by the voting age population, or

"\$75,000

and that a major party candidate in a general Senate election would receive the greater of

"15¢ multiplied by the voting age population, or

"\$150,000

"Subsection (b) provides that a major party candidate for nomination to a House seat would receive 14¢ multiplied by the voting age population; a House candidate of major party in the general election would receive 20¢ multiplied by the voting age population.

"Since the voting age resident population of most House districts clusters around 300,000 this would mean a typical subsidy of \$42,000 in a House primary and a \$60,000 subsidy in a general election. A candidate for an at-large House district receives the same subsidies as a Senate candidate from that State.

"Subsection (c) provides that a minor party candidate would receive 20% of the amount of subsidy to which the corresponding major party candidate would be entitled under subsections (a) and (b). All other candidates who qualified under State law to be on the ballot would receive a subsidy equal to 10% of the amount for major party candidates.

"Subsection (d) provides a post-election 'bonus' if a minor party candidate's performance in the instant election is of major party proportions—25% or more of the vote. The extra money would be payable, however, only to the extent the minor party candidate had valid campaign debts outstanding; the bonus would not be available simply for the party's general coffers.

"Subsection (d) (2) provides for bonuses to candidates who did not even qualify for minor party status before the election. If their actual showing is 10% they are entitled to a bonus bringing the level of their subsidy up to that of a minor party candidate. If they win 25% of the vote they are entitled to a bonus bringing their total subsidy up to the level of major party candidates. In each case the bonus is subject to the same setoff and valid debt limitations applicable to bonuses for minor party candidates.

"Subsection (e) provides for funding in runoff elections. The subsidy shall equal the amount available for the election which precipitated the runoff. However, the determination of whether a candidate has major or minor party status for calculating his subsidy in the runoff shall be based on the vote he received in the precipitating election.

"Subsection (f) limits the amount of any subsidy which can be used for campaign salaries to 20%.

"Subsection (b) provides for determining the subsidy for a candidate in a newly drawn district.

"Subsection (h) provides that primary subsidies may not be used after the primary election and that general election subsidies may not be used to retire primary campaign debts.

"Subsection (i) provides a cost of living escalator provision for the amount of subsidies and for the amount of private financing each candidate is permitted to raise.

"Section 11. *Limitations on Non-Fund Financing.*

"Subsection (a) states that a subsidized candidate may also utilize private resources as specified in this section.

"Subsection (b) permits a major party Senate candidate to raise privately

"2¢ multiplied by the voting age population for the primary (with a \$25,000 minimum)

"3¢ multiplied by the voting age population in the general (with a \$50,000 minimum)

"Subsection (c) permits majority party House candidates to raise privately

"3# multiplied by the voting age population in the primary

"5# multiplied by the voting age population in the general election

"Subsection (d) provides that subject to certain limitations, a minor party candidate can raise private funds such that the sum of the private funding and the subsidy to which he is entitled equals the total funds available to a corresponding major party candidate.

"Section 12. Limitation on individual contributions (a) and (b) limit the amount any person may contribute in any manner to an aggregate of \$250 per candidate. That is, amounts one makes available for a primary campaign, or for the candidate's general election campaign, or for his posting security to receive subsidies, or on independent activity undertaken to promote his candidacy are all cumulative with regard to these limits. However one spends the \$250—or \$100 in a House race—he cannot provide more than \$250 worth of support.

"The candidate, himself, is permitted to contribute the same amounts to his campaign from his own resources (and those of his immediate family). He is also permitted to contribute an additional \$250 to raising the necessary security deposit for his subsidy.

"Subsection (c) requires that contribution in excess of the limits permitted be returned or covered into the Fund.

"Subsection (d) prohibits contributions made in the name of another.

"Subsection (e) makes the limitation applicable to any contribution made before the candidate files for subsidies, as long as they were used for 'campaign expenditures.' (See Definitions, *supra*) or remain available for campaign expenditures.

"Subsection (f) prohibits pooling of the contributions permitted each person. N.B. This does not bar an organization from having a voluntary political fund into which its members contribute, although the organization may only give the candidate \$250 from its funds, however they are raised. What this subsection does bar is an organization itself giving \$250 from its funds, and also arranging for a combination of the \$250 permitted each of its members as individuals, e.g., arranging for each to pay a \$250 portion of the cost of a \$1 million television broadcast coordinated by the organization. To permit that would defeat the purpose of the individual limitation on the contributions at the disposal of any single organization.

"Subsection 13. *Limitations on Expenditures.*

"Subsection (a) provides that the total expenditures a candidate may utilize in his campaign shall not exceed the sum of the subsidy he may receive under Section 10 and the amount of private funds he may raise under Section 11. This does not mean the candidate may take less than the full subsidy to which he is entitled and then raise proportionately more private funds. Section 11 is a firm limit on private financing. Section 12 simply makes explicit the overall limit.

"Subsection (b) provides that if the person expends the \$250 contribution to which he is limited by section 11, in the form of truly independent activity—made neither at the request nor in cooperation with the candidate's campaign, but on the contributor's unilateral initiative—then such independent expenditures on the candidate's behalf shall not be counted as part of the total private fund raising permitted the candidate. This prevents anyone from wielding undue influence because of large independent expenditures on the candidate's behalf. But it still permits everyone some form of political expression on behalf of candidates whom they favor without having to obtain the approval of the candidate or be excluded from making any such expression once the candidate has spent his limit.

"Section 14. *Political Party Campaign Assistance.*

"Subsection (a) permits the state central committee or national committee of a political party to underwrite all or a portion of the private financial assistance permitted subsidized candidates.

Subsections (b) and (c) require the national or state committee to establish a single Party Campaign Account for this purpose, registered with and monitored by the Board. Subsection (d) provides that only contributions expressly made to this Account can be used and no other party funds may be transferred to it, but such contributions may not be earmarked for particular candidates. Contributions to this Account are limited to \$250 per person.

"Subsection (e) requires a record of deposits and withdrawals from Party Campaign Accounts.

"Subsection (f) provides that a committee may only aid its party's nominees and only in the general election. A state committee may only aid such candidates in its state.

"Subsection (g) states that each committee may give as much as it chooses to any particular candidate, but it may not give more than the total amount of private funds that candidate is permitted to use under this Act, and it may only give a smaller amount to the extent that the candidate chooses also to receive funds from other private sources.

"Subsection (h) provides that contributions under this section are permitted in addition to the contribution allowed each person under section 12.

"Section 15. *Enforcement Against Violations.*

"Subsection (a) empowers the Board to seek to prevent actions in violation of the provisions of the Act.

"Subsection (b) permits private persons to file complaints of such violations.

"Subsection (c) requires the Board to notify the person charged and to investigate.

"Subsection (d) requires the Board to hold a public hearing on the record if its finds probably cause a violation has occurred or is about to occur.

"Subsection (e) permits the Board to make finds and issue an appropriate order. If the order is not complied with, the Board may institute a civil action. If the Board fails to act or to order a cessation of a violation, or to institute suit for failure to comply with an order, then the private party who filed the complaint with the Board may institute such a suit.

"Section 16. *Review of Board Determinations.*

"Subsection (a) permits a candidate who is receiving or has applied for subsidy to appeal Board determinations affecting his right to subsidy or the amount of subsidy, or to challenge the Board's failure to act or any other action.

"Subsection (b) requires the Board to review the complaint and hold a prompt hearing.

"Subsection (c) permits the aggrieved candidate to seek judicial review, if necessary, of the Board response to his complaint.

"Section 17. *Jurisdiction of District Courts.*

"Subsection (a) vests jurisdiction in the United States District Courts to hear actions under this Act.

"Subsection (b) provides for nationwide service of process in such actions.

"Subsection (c) requires that such suits be advanced on the docket to the extent possible.

"Section 8. *Penalties.*

"Subsection (a) provides that for a willful violation of the individual contribution limitations, or the overall spending limitations, or falsification of information, or misuse of federal subsidies, a person may be punished by a fine of not less than \$5,000 nor more than the greater of \$50,000 or the full amount of subsidies received, and not less than 6 months nor more than 5 years imprisonment.

"Subsection (b) punishes all other violations by a fine of not more than \$10,000 or one year's imprisonment, or both.

"Subsection (c) then provides that information obtained through such reports and records may only be used, directly or indirectly, in the prosecution of a violation under subsection (a) for falsifying information.

"This format is designed to meet a possible constitutional problem of self-incrimination.

"Section 19. *State Laws Not Affected.*

"This is a general disclaimer of any intent to affect state law except where compliance with state law would constitute a violation of this Act. (It then falls under the Supremacy Clause of the Constitution.)

"Section 20. *Relationship to other Federal Laws.*

"This section conforms this bill and prior legislation, particularly requiring a report for purpose of the 1971 Campaign Disclosure Act, of the 1971 Campaign Disclosure Act, of any subsidy received under this Act.

"Section 21. *Separability.*

"Section 22. *Authorization of Appropriation.*

"This section authorizes additional appropriations as needed for subsidies and as needed for administration of this Act.

## "EXHIBIT 4

## "AMOUNTS AVAILABLE TO SENATE CANDIDATES UNDER CEFA"

"State	Primary		General election	
	Primary subsidy (10 cents)	Total primary expenditures (12 cents)	General election subsidy (15 cents)	Total general election expenditure (18 cents)
Alabama.....	227,000	273,000	341,000	409,000
Alaska.....	20,000	24,000	30,000	36,000
Arizona.....	124,000	149,000	186,000	223,000
Arkansas.....	131,000	157,000	197,000	236,000
California.....	1,400,000	1,680,000	2,100,000	2,500,000
Colorado.....	156,000	187,000	234,000	280,000
Connecticut.....	211,000	253,000	316,000	379,000
Delaware.....	37,000	45,000	56,000	67,000
District of Columbia.....	52,000	62,000	78,000	93,000
Florida.....	511,000	613,000	766,000	919,000
Georgia.....	310,000	372,000	466,000	559,000
Hawaii.....	53,000	64,000	80,000	96,000
Idaho.....	48,000	57,000	72,000	86,000
Illinois.....	735,000	906,000	1,132,000	1,350,000
Indiana.....	360,000	421,000	526,000	632,000
Iowa.....	190,000	229,000	285,000	342,000
Kansas.....	154,000	185,000	231,000	277,000
Kentucky.....	221,000	265,000	331,000	397,000
Louisiana.....	234,000	281,000	351,000	421,000
Maine.....	67,000	80,000	99,000	120,000
Maryland.....	263,000	323,000	403,000	484,000
Massachusetts.....	396,000	475,000	593,000	712,000
Michigan.....	588,000	705,000	880,000	1,050,000
Minnesota.....	256,000	307,000	384,000	461,000
Mississippi.....	140,000	168,000	210,000	253,000
Missouri.....	327,000	392,000	490,000	588,000
Montana.....	46,000	55,000	69,000	83,000
Nebraska.....	102,000	123,000	153,000	184,000
Nevada.....	35,000	42,000	52,000	63,000
New Hampshire.....	52,000	63,000	78,000	94,000
New Jersey.....	503,000	603,000	754,000	905,000
New Mexico.....	64,000	76,000	95,000	114,000
New York.....	1,280,000	1,536,000	1,920,000	2,304,000
North Carolina.....	346,000	416,000	519,000	623,000
North Dakota.....	40,000	48,000	60,000	72,000
Ohio.....	719,000	862,000	1,078,000	1,293,000
Oklahoma.....	181,000	217,000	272,000	326,000
Oregon.....	150,000	180,000	225,000	270,000
Pennsylvania.....	816,000	979,000	1,244,000	1,469,000
Rhode Island.....	67,000	81,000	101,000	121,000
South Carolina.....	171,000	205,000	256,000	307,000
South Dakota.....	43,000	52,000	65,000	78,000
Tennessee.....	271,000	326,000	407,000	488,000
Texas.....	786,000	922,000	1,152,000	1,383,000
Utah.....	69,000	83,000	103,000	124,000
Vermont.....	31,000	37,000	46,000	56,000
Virginia.....	320,000	384,000	480,000	575,000
Washington.....	237,000	285,000	356,000	427,000
West Virginia.....	118,000	142,000	177,000	213,000
Wisconsin.....	296,000	355,000	443,000	532,000
Wyoming.....	23,000	27,000	34,000	41,000

"Every candidate would be eligible to receive a minimum of \$75,000 in the primary and \$150,000 in the general election, as subsidy from the fund. In addition, every candidate would be eligible to raise a minimum of \$25,000 in private funds in the primary and \$50,000 in the general election. Thus, regardless of the figures on the above chart every candidate would have available at least \$100,000 to spend in the primary and \$200,000 to spend in the general election, whatever the size of his State."

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## FEDERAL ELECTION CAMPAIGN ACT OF 1973

FRIDAY, MARCH 9, 1973

U.S. SENATE,  
COMMITTEE ON COMMERCE,  
COMMUNICATIONS SUBCOMMITTEE,  
*Washington, D.C.*

The subcommittee met at 10:05 a.m., in room 5110, New Senate Office Building, Hon. John O. Pastore (chairman of the subcommittee) presiding.

Senator PASTORE. This hearing will now come to order.

Our first witness today on S. 372, is Dr. Frank Stanton, vice chairman, Columbia Broadcasting System.

Dr. Stanton, before you begin your testimony, it has been called to my attention that this may be your valedictory. This committee wishes to express the sentiment and the feeling—and I say this without script because I want it to be spontaneous—that you have been a very important spokesman for the broadcasting industry of this country.

You have always cooperated with this committee. It doesn't necessarily mean that we have always agreed completely; and it does not necessarily mean that the industry is not without some fault. It is a young industry. It came into being with momentum soon after World War II. It is true that we had the idea before that time. But for one to appreciate the progress and development of the broadcasting industry in the United States of America, one need only travel to other countries. Then, when you realize what they have not got, you begin to appreciate all that we have.

I repeat again, you have been a very cooperative witness before this committee, whenever we have invited you to come, you have accepted. You have been a great American. Various Presidents have appointed you to very important nonpaying commissions and committees. You have recently been nominated to head the American Red Cross, as I understand. I know of no man in the United States of America that can meet that responsibility better than you. I don't know what your future plans may be, Dr. Stanton—and on this occasion I would like to call you Frank, because I consider you a friend—but you go from this hearing today with the best wishes of this subcommittee, the full committee, and myself. We hope you enjoy many more years of good service, good health, and happiness. We are very happy to have you here today.

### STATEMENT OF DR. FRANK STANTON, VICE CHAIRMAN, CBS

Dr. STANTON. Mr. Chairman, thank you very, very much. I am deeply touched by your remarks. Needless to say, over the years, I have

enjoyed working with you and knowing you, and appearing before this committee.

I suppose it is unnecessary for me to say under the circumstances my name and my title this morning, but for the record, I am Frank Stanton, and I am vice chairman of Columbia Broadcasting System, Inc.

On eight separate occasions, going back over a span of 14 years, I have had the opportunity of discussing section 315 with this committee. On each occasion, as a citizen as well as a communications executive, I have been greatly reassured by the level of the discussion here and by the committee's strong sense of purpose.

I do not believe that I am exaggerating when I say that seldom in the history of American political processes has a thorny, persistent, and major issue, involving the most vital ingredient of those processes—the election of our national leadership—seldom has an issue been handled by a congressional committee with deeper awareness of the true interests of the American people.

In 1960, Mr. Chairman, under your wise leadership, this committee took an action which, in the long perspective of history, will rate at the very top of outstanding examples of the legislative procedures of our nation working at their best.

My reference, of course, is to the suspension of section 315 so that the American electorate could see and hear the major Presidential candidates in face-to-face debate, unencumbered by slogans, by oratorical set pieces or by preconceived scripts.

The result: the largest proportion of eligible voters in our history—64 percent—participated in the election of the President. In the absence of such debates in 1964, the participation declined to 62.9 percent; in 1968, to 61.8 percent; and in 1972, to a shocking low of some 55 percent.

I need not emphasize before this committee the tragic plight of a nation, with the best communications systems in the world and with the most highly educated population, mustering little more than half of those qualified to carry out their fundamental responsibilities as citizens: choosing who is to lead their country in a time of vast problems and vast opportunities.

This drastic and hazardous trend of less and less of our electorate voting can be arrested. It can be arrested in the next Presidential election—if affirmative action on S. 372, providing for the repeal of section 135 is taken in this session of the Congress.

Never has the time been more propitious. In 1976, as in 1960, neither candidate will be the incumbent. The old claim that open debate might compromise an incumbent administration—a questionable proposition at best—in my opinion, vanishes.

In 1976, we will be marking the beginning of our political experience as a free and independent people. No celebrations of that anniversary could be more significant, no speeches about its meaning more eloquent, no act of this Congress more strikingly relevant than the framing and passing of legislation whose sole purpose is to advance, through the wisest and fullest use of our communication media, the validity and the strength of the processes by which as a free people we govern ourselves.

This is the major achievement envisioned by your bill, as it has been envisioned by you for many years. As for CBS, we repeat our standing offer, as conveyed to you in my letter of March 10, 1971, of 8 free prime hours for the major Presidential and Vice Presidential candidates in the 1976 campaign if the provision of S. 372 amending section 315 is enacted.

Senator PASTORE. Before we go off that subject, Dr. Stanton, would debates be a prerequisite to your willingness to give free time, if section 315 were amended to exempt the Office of the President and Vice President?

Would a confrontation necessarily have to be the case?

Dr. STANTON. No. I believe I have said in past occasions and I believe I said in my letter what we are asking for is the opportunity to sit down with the candidates and work out the most effective way we can bring those candidates and the issues to the American people.

It is my firm belief that some form of face-to-face discussion, call it debate, confrontation, what you will, but some form of joint participation is the most effective way of attracting the audience and getting the issues before the people.

I say that because as I recall in the experience we had in 1960, the broadcasts that were preempted by political broadcasts, that is the entertainment broadcasts that were preempted, let's say they had a rating of 100.

The paid political broadcasts that took their place had only a rating, an index value of 70. In other words, they lost 30 percent. But when the debates came on, the index value went from 100 to 120. In other words, what I am saying is that you get an enormous increase by having the two candidates appear at the same time.

But the form, let us work it out in 1976 as we did in 1960. That is what I am asking for.

Senator PASTORE. That is right. I quite agree with you that the most effective way of presenting an issue, of course, is to have a confrontation.

That works out maybe in 99 percent of the cases. But there are rare instances where one must understand that the character of the situation is such that one of the candidates is put at a very, very serious disadvantage only because of certain peculiar circumstances.

I say that rather advisedly. I have always been very willing to debate, and I have always debated. During the last election, of course, I took a contrary view. A man who was running against me was a priest, and he wore his Roman collar all during the campaign. Now in a personal confrontation, how could a Catholic layman like myself ever win no matter what the situation was?

If I became affirmative, as I usually am, as you well know, I would have been criticized for attacking the church.

On the other hand, if I became too passive, they would say "Pastore is getting old." So you see, I was placed in a very, very difficult situation. I only cite that there may be an instance or two, you see, where a candidate who, even though he is always willing to debate, cannot.

Dr. STANTON. I grant that.

Senator PASTORE. This presented me with a dilemma. As I came out of church many, many times, people would come up to me and tell me, "Take it nice and easy, Pastore, now, take it nice and easy, Pastore. After all the man is a priest."

That is what I was up against. The reason I am saying that is to illustrate that you have to give some flexibility.

Dr. STANTON. You have. Your point is very well taken, Senator.

S. 372 would also place overall spending limitations on candidate campaign expenditures for Federal office. These limitations would replace the existing ones which are applicable only to certain communications media and which arbitrarily limit a candidate's spending on broadcasting to 60 percent of his total communications expenditures.

While the issue of providing for overall spending limitations is uniquely one for congressional determination, I believe it most appropriate that S. 372 permits candidates to allocate their spending as they see fit.

At the same time it removes a blatant discrimination against the broadcast media by singling them out for specific spending limits. In this regard, however, it would seem most appropriate that the committee consider including in any bill it adopts the same language on rates for broadcast and print media—and not use one term “lowest unit charge,” for broadcasters and “comparable” charge for the print media.

Finally, we urge most earnestly that any reform legislation include repeal of that section of the Federal Election Campaign Act which amended section 312(a) of the Communications Act.

Section 312(a) now requires that, on pain of license revocation, a broadcaster must make available to candidates for Federal elective office reasonable amounts of paid time or reasonable access to free time. This provision for access to free time is potentially more hazardous even than section 315, for, as interpreted by the Federal Communications Commission, candidate appearances in news broadcasts are apparently not to be considered as providing access.

Prior to the passage of the Federal Election Campaign Act, we were not aware that candidates, particularly candidates for Federal office, had experienced significant difficulties in their dealings with broadcasters.

We do not believe that there was any need for such provision, particularly when it is tied to revocation of licenses. What is clear, however, is that during the last campaign, the phrase “reasonable access” applied either to paid or free time, introduced an element of coercion into the dealings of some candidates with broadcast licenses.

Although many fringe political groups were not yet aware during the 1972 campaign of the possibility of exploiting this provision, it is highly probable that fringe candidates will make greater use of it in future campaigns.

As you know, broadcasters are very wary of anything that will endanger their licenses and the very vagueness of this amended section 312 made it loom large in decisions as to whether to comply with specific requests for time. Indeed, section 312(a) had to be an element in decisions on requests for time no matter how frivolous the candidacy or how intrusive on the station's format.

The amended section 312 grants rights to all legally qualified candidates for Federal office and, as the phrase “legally qualified” has been interpreted by the FCC, it includes many a fringe candidate.

Far from strengthening the most constructive role that radio and television can play in election campaigns, such sweeping, inclusive mandates can only weaken, diffuse, and fragment it. The simple arithmetic of the situation in stations serving high population centers reduces such blanket formulae to an absurdity.

Entire broadcast schedules could be annihilated, and with them audience attention. Instead of serving the public with a sense of responsibility, broadcasting would be forced into serving as mere wholesale conduits that would succeed in nothing except diminishing the value attached by the electorate to our national political dialog just when we should be doing all that we can to enhance that value.

This is the time, when we are neither in the heat of a campaign, nor on the immediate threshold of one, that the opportunity should be seized upon to act firmly and decisively to remedy this situation.

In its consideration of S. 372, which would grant to broadcasters more discretion by repealing section 315 with respect to the offices of President and Vice President, this committee has the opportunity to remove the coercive impact that the present section 312 has on broadcasters.

In closing, Mr. Chairman, I would like to express my appreciation for the courteous treatment you have accorded me over the years. The technical aspects of broadcasting brought to this republic for the first time in history, the need, repugnant as it was to our traditions and values, for Federal regulation of a communications medium.

Congress, the FCC and broadcasters have had to proceed, without applicable precedent or exact parallel, in constructing a policy and guidelines that preserved the highest degree of freedom with the maximum sense of responsibility.

To many of the problems raised we have not arrived at final answers. But through the constant devotion of this committee to the broad public interest rather than to narrow questions of special pleading, through the realistic but sympathetic attitude that you have shown and through the long view that you have taken, the public has been the better served by broadcasting.

Senator PASTORE. Senator Hart?

Senator HART. Doctor, I was glad that I got in in time to hear the Chairman, Senator Pastore, express his admiration and best wishes. I certainly say "amen" to that.

Dr. STANTON. Thank you, Senator.

Senator PASTORE. Senator Baker?

Senator BAKER. Mr. Chairman, thank you very much.

I think your statement is very useful and will be a great contribution to the record as this committee proceeds on this matter.

We are grateful for your willingness to appear and testify in this respect today.

We look forward to your future appearances before this committee and other committees in the Congress, to point out and underscore your continued concern for public matters.

Dr. Stanton, I have one or two things I would like to bring to your attention, if I may, and have the benefit of your observations.

What additional complications or advantages would flow from the amendment of section 315 so that it did not apply to senatorial candidates or congressional and gubernatorial candidates, as well?

Dr. STANTON. Senator Baker, I have been on the record several times as saying just that, but I think that we have to take these things perhaps from a practical point of view in steps. I was hopeful that after we had had the experience in 1960 with the temporary resolution that we would come back in 1964, but events changed that.

It is my fervent hope that if we get section 315 lifted this time on a permanent basis and we conduct ourselves as I am sure we will conduct ourselves, that we can come back and take the next step at a later date.

But if I had my way about it, I would ask for the whole thing right now.

Senator BAKER. Thank you very much.

What would be the value and the virtue and the practicality of making a distinction, as Senator Pastore suggested, between special circumstances, for instance, incumbency, and nonincumbency.

Obviously, the situations in 1960 and 1976 would be similar, when there is not an incumbent candidate for the Presidency and Vice Presidency.

Do you think we should design language that says this is applicable when there is a nonincumbent situation?

Dr. STANTON. As a layman, I think you could draw that kind of language. As a broadcaster and a citizen, I would hope we would not have that kind of situation, because I think the day will come that an incumbent may want to debate when he runs to succeed himself and I don't think he should be denied that opportunity.

Senator BAKER. The argument made by President Johnson and the information that appeared before this committee imputed to President Nixon was that the nature of the Presidency is such that it would cause problems that they could not cope with by reason of their special knowledge, because of their dual capacity as a candidate and a Commander in Chief of the Armed Forces. This argument has been rejected and accepted by the Congress at various times.

But it persists. I wonder if you think it is a valid argument, or do you think it is worth taking into account in designing our further treatment of section 315?

Dr. STANTON. After very careful consideration of this point on earlier occasions, Senator Baker, it is my opinion that we should not take this into account in the drafting of the legislation for section 315, and I very well believe that the character and quality of the men who run for the Office of President, those characteristics, are such that I do not believe in a race between the incumbent and another candidate that you would have the kind of embarrassment that some people have alluded to.

But I think it is one of those things that we have to learn to live with, and how to achieve that kind of existence.

The British have done this for a long time, not in the sense of television debates, but they have had the challenges on the record by the opposition party, and have been called to terms by the opposition, and they found a way to live with it, and I think their problems are no less difficult than ours.

It is just a matter of magnitude.

I believe the day will come, as one President said to me at one time when he would want the opportunity of having a debate as if he were renominated for the Presidency.

You can go back over the past couple of elections and explain why we didn't have it. But I think we ought to try it, and 1976 is such an ideal opportunity to get back into the situation again and then see how it works in 1980.

There is nothing—you can't force the candidates to appear if they choose not to, and so I don't revise my position.

I would not put any footnotes or any special provisos, if you will, in the section 815 amendment. I would go flat out for President and Vice President.

Senator BAKER. I think that is a good point. As you say, we are not under the shadow of an impending campaign, and we are far enough away from it to think about it objectively.

It isn't excessively facetious to say that my chairman and I have been on each side of the issue.

Senator PASTORE. Not on each side—on different sides.

Senator BAKER. At different times.

Dr. STANTON. Would you care to give me one or two observations, although they aren't strictly speaking in the purview of S. 372, on the 1971 act and in particular on the lowest unit cost provision?

How do you think it worked? What impact do you think it had on broadcasters, and what observations can you give the committee in that respect?

I know that Senator Cannon is here, who, happily, is a member of this committee, and also chairman of the Rules Committee, which will have jurisdiction over the nonbroadcast aspect of campaign reform legislation.

Dr. STANTON. I can only speak of our experience with CBS with our radio and television network and our company-owned station.

It isn't the easiest thing to administer, and the industry itself, I believe it is fair to say, is somewhat divided on the question of whether it should be a way of life in political campaigns.

I must believe it is something that we should continue. We, as a company, I guess, are one of the first—if not the first—to take the attitude that we should give the lowest unit rate in the sale of time for political campaigns.

It seemed to me that this was the way to cut the ground out from under any attack that we were profiting by the political campaigns, and it is a very complicated thing to administer. It was before the rule went into effect, because we were doing it before the rule was official.

But now, reasonable men differ on this. I happen to take one viewpoint. I expect there are colleagues in my own organization who would prefer a different route.

Senator BAKER. Do you have any concern, Doctor, that this could be the opening wedge to a statutory mandate for particular charges in other circumstances?

Dr. STANTON. You are now talking about such things as fares for airlines, and telephone rates, and things of that kind?

Senator BAKER. What I am really thinking about is, if the Congress directs you to charge the lowest rate, is there any fear on your part or on the part of the industry, that the next step might be that the Congress will mandate that some other advertiser should have a particular classification or rate, depending on the service to the public?

Dr. STANTON. No; that has not occurred to me, and I have heard no discussion about that.

Senator BAKER. Have you no fear that this is the opening wedge in statutory determination of rates and charges?

Dr. STANTON. There is that possibility, certainly, and I think we shouldn't take it too lightly in view of some of the things that have happened about removal of certain kinds of advertising from the air.

Senator BAKER. I might say, as my colleagues know, I strongly opposed that provision both in the committee and on the floor, and I lost. I am ready to say that in all candor, in the 1972 elections, it appeared to work very well.

I call attention to the matter simply because I believe we have to keep our eyes sharply focused on the possibility that we created a precedent, and we have to avoid the temptation to legislate rates and charges for broadcasters and other media, excepting and saving this one, that is, the most fundamental to the democratic process.

So I say to my colleagues now, I don't confess that I was wrong in my opposition to that provision, and it worked better than I thought it would, but I hope we don't go any further.

Thank you.

Senator PASTORE. That provision, I think, can be ascribed to the sense of moderation on the part of this committee.

As you well know, Dr. Stanton, and I say this for the benefit of Senator Baker, there was a great deal of pressure to mandate free time. It was very, very vigorously resisted by the broadcasting industry, and people outside of the industry. They thought that the Congress might be going too far. But certainly the Congress would be within its jurisdiction if it made it a condition to the granting of a license or the renewal of a license that a certain amount of free time be given in public service.

In order to avoid that, we really backed up to the most practical situation. Inasmuch as the broadcasting industry itself has set rate standards for different categories of time, they should allow candidates for public office their lowest unit rate within a certain period of time prior to the election.

I think myself it has worked well.

While Senator Baker is not willing to confess that he was wrong, I hope that he confesses that he was not right.

Senator BAKER. Under the time honored and traditional equal time provisions of this committee, I don't confess that I was not right, but rather that the broadcasters used extraordinary good judgment in handling a bad piece of legislation.

Senator PASTORE. You know he and I are on the same side. We could have a lot of fun with that.

Senator Cannon?

Senator CANNON. Thank you, Mr. Chairman.

Doctor, yesterday Dean Burch testified before the committee and he pointed out that in certain circumstances a candidate was not given the lowest unit rate because his picture or his voice did not appear on the program itself. Do you think that that is somewhat of an artificial distinction, and that actually if this is going to apply, hadn't it ought to apply to any political broadcasting that was put on in favor of that candidate. Whether his picture appeared on it or whether his voice appeared on it?



Dr. STANTON. That is my interpretation of it; yes.

Senator CANNON. It seems to me that was somewhat of an artificial distinction.

Dr. STANTON. I would be surprised if that wasn't a very special case. I had not heard of that, and was not here yesterday, but I heard nothing about that during the campaign period.

Senator CANNON. Actually, he went on to say that what happened was that there immediately was an effort, then, to flash the candidate's picture on the screen or to impose his voice on as part of the program so that it did then qualify for the lowest unit cost. But it seems to me that that is quite an artificial distinction, and that we ought to really give this a fairer chance to work across the board.

Dr. STANTON. I agree.

Senator CANNON. I am sorry I was not here when you delivered your statement, but I have read it and I read it with a great deal of interest.

You always have been a considerable help to this committee. I thought particularly where you pulled your statistics together on the voting percentages, that was very, very interesting. I believe it is a good analogy. If section 315 were repealed we could see an improvement in our voting percentage, which was, I thought, very embarrassing as a nation in the last election.

I happened to be with some of my colleagues in Germany at the time of their national election and it was really something to see. The difference in interest, and the difference in voting percentages that took place in that country as distinguished from ours.

Dr. STANTON. I believe last Sunday in France they had a turnout of 80 percent or better in the election that took place then.

Senator CANNON. I note in your statement that you again renew your offer that you gave to us before, 8 free prime hours to the major presidential and vice presidential candidates in 1976. It is my understanding that you told us before that the offer was with no strings attached. That is, it didn't require them to debate each other, or some similar format.

Am I correct on that?

Dr. STANTON. I believe before you joined the hearing this morning, Senator Pastore had asked me a question about that, and I indicated that we as the industry, or we as CBS, and certainly I can only speak for our own organization, would like the opportunity of working out the format with the candidates, and not to say that it is going to be one thing or another at this particular time.

But I also pointed out to him that if you are really going to get interest in the campaign and in the issues, that it is better to have the candidates appear together than it is to have them appear separately. This is repetitious for the other members of the committee, but I can show you by the experience that we had in 1960 that we achieved a much larger audience when we had the joint appearances than when the men appeared individually on paid time.

So that if our objective, our end objective here, is to revitalize the whole process of our presidential elections, I would hope that we would not be confined one way or the other as far as the framework of the broadcast circumstances.

Let us work that out.

Senator CANNON. You would not go to the extent of saying they would have to appear on the same program, or else you would not give the time?

Dr. STANTON. No, but I would not want to be misunderstood on this point and say that this is a series of free 1-hour broadcasts.

Senator CANNON. I understand what you are saying there, that you do want some leeway in it. But I do want to get that point clear. You would not insist that there actually be a confrontation or else there would be no free time.

Dr. STANTON. No, but there are a lot of ways of achieving the thing that I think both of us want.

Senator CANNON. Yes.

Dr. STANTON. At one time I believe I had suggested to this committee that we might have opening statements by both candidates and closing statements by both candidates at the head end of the campaign and at the end of the campaign and have joint discussions in between.

There are a variety of ways this could be worked out.

Senator CANNON. I am sure there are. I know your objective is very good, but I am a little concerned about the situation where the offer might be made. One candidate, perhaps, might not want to meet the other on TV because we had heard the old story that some people have better TV appearances than others. If the time were to be withheld unless they did meet on TV, it could create a rather embarrassing situation for a political candidate.

Dr. STANTON. Yes, I can understand your point of view on this, but if we are going to give the time and make the time available, and this is not required in the proposal that 315 be amended, then I think the broadcasters, the journalists, should have some opportunity to work with the candidates, but not to make this a free time bill because if it were a free time bill I would be here in opposition to it, as I was in 1960 when it was proposed then.

It seems to me that the joint appearances are the most efficient way to use the medium, and if we are going to say that this is a commitment for free time then in all frankness I would have to say that wouldn't want to be committed to that at this point.

Senator CANNON. You have already said that there are a number of formats that you would probably work out—but, again, I wouldn't want it to be understood here that you are saying you are not going to give the time unless they agree to meet in head-on discussion, because you could have your reporters interviewing a candidate on the issues of the day without necessarily having head-on-head-type situations.

Dr. STANTON. I agree with you that the word "debate" and the word "confrontation" have been abused in connection with what we are talking about, that there are ways to have discussions and elicit the information on the issues without having it a confrontation, if you will.

Senator CANNON. Very good.

Thank you very much, Mr. Chairman.

Senator PASTORE. Thank you, Doctor.

Dr. STANTON. Thank you, Mr. Chairman.

Senator PASTORE. Our next witness is Mr. Leonard Goldenson, president of the American Broadcasting Co.

It is always very pleasant to have you, Mr. Goldenson. I am not going to deliver a tribute in your case until the time comes when you, too, will be ready to step aside. We will do it at that time.

**STATEMENT OF LEONARD H. GOLDENSON, CHAIRMAN OF THE BOARD, ABC**

Mr. GOLDENSON. I merely want to say on behalf of yourself and your committee, Dr. Stanton is deserving of that tribute. He has made a fine contribution to the industry and a fine contribution to the Government, and I think he is deserving of everything you and the committee have said.

Senator PASTORE. Thank you very much.

Senator BAKER. Mr. Chairman, speaking of Mr. Goldenson's retirement at some future date, I can't resist the temptation of telling about the young seal and the old seal who were talking and the old seal said it is true that in time the young seal pushes the old seal off the rock and takes command of the herd, but not when the old seal owns 90 percent of the stock.

Senator PASTORE. With that as a prelude, you had better proceed.

Mr. GOLDENSON. Mr. Chairman and distinguished members the Senate Subcommittee on Communications, my name is Leonard H. Goldenson. I am chairman of the board of American Broadcasting Companies, Inc.

I thank you for your invitation to testify in these hearings on S. 372, a bill which would place a limitation on all expenditures in election campaigns for Federal elective office, and which would relieve broadcasters of the equal time requirements of section 315 of the Communications Act as it relates to presidential and vice presidential candidates.

ABC supports the provisions of S. 372 and feels that its passage would be in the public interest. I welcome this opportunity to offer a few comments and suggestions.

As you know from our previous appearances before you, we at ABC join with all of you on this committee in agreeing that mounting campaign costs in Federal elections is a problem for which workable solutions must be found.

An individual's integrity, ability and dedication, rather than the extent of his financial resources, must be the major qualification for political office. We have a national responsibility to achieve this aim. ABC will offer any practical and realistic legislative steps toward this goal.

We are pleased that S. 372 would remove the present selective spending limitations of the Federal Election Campaign Act of 1971 and instead provide an overall ceiling which would cover all campaign expenditures, thereby curing one discriminatory aspect of the present limitation.

We enthusiastically applaud this progressive step. We strongly believe that once an overall limitation on campaign expenditures has been set—and we leave to the expertise of this committee the question of what the overall limitation should be—the candidate should be free to allocate his expenditures among the competing media in whatever manner the candidate feels best advances his or her campaign.

Prior to the passage of the Federal Election Campaign Act of 1971 ABC suggested before this committee that any limitations on Federal campaign expenditures should cover all expenditures and be equally applicable to all media, or else the benefits from ceilings on campaign expenditures would be lost.

ABC will continue to oppose discriminatory proposals. In this connection, ABC believes strongly that any advertising limitation which applies only to one medium of communications is of questionable over all public interest value.

Specifically, I am referring to proposals that would curtail the advertising of certain products on television and radio. Following such restrictions the general public assumes the sale or consumption of these products is being limited, but all evidence indicates that no such limitations occur and the public is therefore deluded.

It is revealing to note that the current issue of the magazine "TV Guide"—which has a circulation of 17 million, all of whom watch television—carries advertising for cigarettes on 7 pages.

We welcome the provision in S. 372 which would relieve broadcasters of the equal time requirements of section 315 of the Communications Act as it relates to Presidential and Vice Presidential candidates.

ABC's position respecting section 315 is well known to this committee. We have long been of the view that this suspension would significantly alleviate the cost of running for these offices.

Moreover, the greater freedom and flexibility which would be afforded to the broadcaster in its campaign coverage would, we believe benefit the public by permitting the most effective presentation of the major party candidates and the most comprehensive exploration of important issues.

We also believe that consideration should be given to the disparate treatment given to the broadcast and nonbroadcast media relating to the regulation of rates by the Federal Election Campaign Act of 1971.

I specifically refer to Section 103(a)(1) of title I of the act which provides that during certain periods the charges made for the use of broadcast stations "shall not exceed \* \* \* the lowest unit charge of the station for the same class and amount of time for the same period \* \* \*".

However, the nonbroadcast media is accorded more lenient treatment under section 103(b) of the act where charges merely must not exceed those "made for comparable use of such space for other purposes"——

Senator PASTORE. Well, you can understand why that is so. I mean after all, we can't tell the newspaper what to charge because the newspaper receives no license. We can limit what a candidate can advertise in that newspaper because he is a candidate for elective office at the Federal level. The reason why we did it in the case of broadcasting was only because of the reasons I have already given, plus the fact that you are a licensee. That is the only justification.

I realize the import of your argument, and the merit of it, but am explaining why we had to make the distinction.

Mr. GOLDENSON. Yes, but in establishing newspapers and sending it through the mails as the third-class mail, Congress does have the

power to impose certain conditions, I think, just the same as they do on broadcasting.

Senator PASTORE. Conditions on mailing, but not advertising. I think the two cases must be distinguished.

Senator BAKER. Mr. Chairman, if I can interrupt at that point to say that the argument Mr. Goldenson makes, which is essentially that the lowest unit cost provision is discriminatory and that we don't impose that against others, as I understand him, is an argument that I made at the time this proposal was before the Congress.

I think the chairman is right that there is a valid legal distinction, although the mail aspect of it, as Mr. Goldenson points out, is a collateral legal issue that bears further examination.

But the observation I would make is that while we have the power to do it, while we may have the legal authority to discriminate, that that necessarily doesn't mean it is good public policy to do so.

Senator PASTORE. That is right. I agree with that. And I understand the argument that is made.

On the other hand, of course, as we have said, the pressures were brought to mandate free time, and that would have created even a greater dilemma.

Somewhere in between we decided to base it on what the broadcasters themselves had formulated as a schedule of rates. We didn't say we would only charge \$10 a second. All we could said is that if you take it upon yourself to give a special rate to anyone, you must give that special rate to a candidate for public office within a certain period of time. This is in the public interest.

That is the only classification we had. Whether or not that would stand up in court, I am not prepared to say at this moment. I think it will.

But that was the reason for our doing it.

Mr. GOLDENSON. I understand.

Senator PASTORE. In other words, this was not intended as an encroachment upon the broadcasting industry. It was merely intended to facilitate exposure of candidates in order to explain the issues to the public during an election campaign. That is the only reason for it.

This was not punitive. This was not intended to be punitive.

Mr. GOLDENSON. I understand that fully. My only thought is that we would like to be treated on a comparable basis with all media, and because of that I think NBC gave discounts to candidates, as we did, but we wanted the language to be that are treated on a comparable basis with all media, and that is the only point I would wish to make.

Senator PASTORE. If I were sitting where you are I would be saying exactly what you are saying; and if you were sitting where I am you might be saying what I am saying.

Senator BAKER. Or what I am saying.

Senator CANNON. Would the Senator yield?

Senator PASTORE. I yield.

Senator CANNON. I agree with the background, and what has taken place on this matter. But I am less clear in my own mind on the point of whether or not we could legislate that same provision for miscellaneous papers by requiring that they not discriminate in their rates.

In other words, requiring them as well to give the lowest rate that they charge to anyone else. Even though we have absolutely no basis for telling them what their rates ought to be, and we have certainly no right to license them as we do broadcasters, I think there may be a question of whether we couldn't actually use the same language that we use with respect to the broadcasters in the newspaper situation.

Senator PASTORE. Well, that is true, and there was a New Hampshire case on that very point.

Mr. GOLDENSON. Shall I proceed?

Senator PASTORE. Please.

Mr. GOLDENSON. A concept similar to the previous overall provision in section 315 of the Communications Act and the standard that still applies to the broadcast media outside the defined election periods.

ABC submits that these disparate provisions are also discriminatory, and that there is no justification for the nonbroadcast media to enjoy a competitive rate advantage.

In an effort to ease the cost of campaigning for public office, ABC's owned radio and television stations have voluntarily granted discounts amounting to 33 1/3 percent for announcements and preselection program time periods. This policy will be continued in future elections.

For the 1972 presidential campaign the ABC Radio and Television Networks granted 33 1/3 percent discounts from applicable rates for announcements and selected time periods, and these discounts will continue to be granted for the 1976 presidential campaign.

Accordingly, ABC believes that its voluntary action and similar efforts of other broadcasters substantially obviate the need for the "lowest unit charge" provision.

In closing, ABC supports the provisions of S. 372 and feels that its passage, with the few minor modifications I have suggested, would be a very progressive step forward and would contribute to reducing the spiraling costs of campaigning for Federal elective office.

Thank you for the opportunity to be present here today and to make these comments.

Senator PASTORE. Thank you very much.

I would like to put the same question to ABC that I put to CBS and that is that in granting the time to the presidential and vice presidential candidates, will it be a condition precedent that the network will sit down and negotiate the format?

Mr. GOLDENSON. The network will sit down. We feel the meaningful exchange of views on the important issues are necessary, and under a format that we can agree upon with the candidates themselves and in each case we would have to sit down and work that out.

Senator PASTORE. Thank you.

Senator CANNON?

Senator CANNON. Thank you very much, Mr. Goldenson.

Mr. GOLDENSON. Thank you, Senators.

Senator PASTORE. Thank you very much. You are at liberty to go Mr. Julian Goodman, president, National Broadcasting Co.

For you also, Mr. Goodman, I hope to be here long enough to make the same speech for you.

## STATEMENT OF JULIAN GOODMAN, PRESIDENT, NBC

Mr. GOODMAN. I hope you are, too, Senator, and before I begin my statement, may I associate myself wholeheartedly with your opening remarks about Frank Stanton as a great American.

And I say that not only because of my longstanding admiration for the many contributions he has made to broadcasting and for his integrity and his ability, but also as the senior member of our presidential community he has quite properly always been the first to testify, and I have, thereafter, been able to get the clear benefit of adding to my education by listening to his very able and articulate answers to your questions, and I associate myself with everything he says.

Senator PASTORE. It has always made you feel young.

Now that he is gone, you are upgraded a step. That happened to me, Theodore Francis Green was my senior colleague, and when he left the Senate, he was almost 90 years old. For some reason, I always felt so very, very young because he was 90, and I was very, very much younger. Then, all of a sudden, of course, he resigned from the Senate, or didn't choose to run again, and I discovered that I was the senior member of the delegation. That had quite an effect upon me.

Your young days are over.

Mr. GOODMAN. I may feel that later, but Dr. Stanton has always acted so young that he has made me feel his contemporary.

My name is Julian Goodman. I am president of the National Broadcasting Co., and I appreciate the opportunity to present our views on S. 372.

For many years, NBC has urged that the equal time requirement of section 315 does not serve the public interest and should be repealed.

Short of total repeal, which may not be possible as a first step, we strongly support repeal of the rule for appearances by Presidential and vice presidential candidates.

The 1959 amendments to section 315 were helpful in exempting certain types of news programs from the equal time requirement. But the rule still limits the broadcaster's ability to bring major candidates to the public in a variety of program formats.

This hampers the candidates, the public and the political process more than it hampers broadcasters. It limits the opportunities of major candidates to take their case to the voters, and it limits the public's full opportunities to learn about the candidates through broadcast appearances.

The exemptions are helpful, but they go only part of the way; and even the exemptions are subject to interpretations by the Federal Communications Commission and the courts, who may not agree with the broadcaster's judgment that the candidate appeared in on-the-spot news coverage or in an exempt news interview format.

We do not have to rest on speculation about the public advantages of terminating the equal time rule, because we have a case history of experience to demonstrate the results.

In the 1960 campaign, the rule was suspended, of course, as you know, for presidential and vice presidential candidates, and the public saw much more of the candidates than at any time before or since—and not just in the so-called great debates.

In NBC's case, we were able to provide 6 hours of television network time for presidential and vice presidential candidates—apart from the so-called debates—in programs that would probably now be subject to the equal time rule.

In 1967 and in 1971, I told this committee NBC would provide time free of charge to the presidential and vice presidential candidates of the two major parties, if the equal time requirement were lifted to make that possible.

We are prepared to do no less in the next presidential campaign. In 1976, given relief from the equal time rule, the NBC Television Network would set aside four prime time half hours for the presidential and vice presidential candidates of the two major parties to use as they wish, that is, two half hours for each of the major parties.

This would be, of course, in addition to any other special programming developed by NBC News for its coverage of the campaign.

Senator PASTORE. I want to compliment NBC on this statement, because I think you have been emphatic, and it explains completely the question that disturbs Senator Cannon, and that is the argument I made on the floor at the time the matter was discussed.

I want to congratulate you for it. You have been very, very explicit on it.

Mr. GOODMAN. Thank you, Senator.

For all these reasons, we urge the committee to take a real step forward by recommending repeal of the equal time rule for presidential and vice presidential candidates.

S. 372 would also extend the existing limitation on campaign spending—which now applies only to some advertising and telephone service—by or on behalf of a candidate for Federal office.

We agree that if limitations are to be imposed, they should be applied to total expenditures—not to specified categories.

We believe with you, Mr. Chairman, that it is better to let each candidate decide how best he may apportion his campaign funds.

The present limitation on campaign costs is defective in at least two respects—it is confined to media expenditures only and it specifies different limits for broadcast and nonbroadcast media.

We are not experts on the conduct and cost of political campaigning, and are not in a position to suggest what the limit on expenditures should be. It seems clear, however, that whatever limit is adopted should apply to total expenditures, to help achieve the goal of controlling the cost of political campaigns.

The present statute places another type of restriction on broadcast charges—the lowest unit charge for the same class and amount of time for the same period. This discriminates against broadcasting by singling it out from among all media.

NBC agrees that the special public interest in the campaign process justifies reduced rates for political advertising. But we urge that if this is to be required by legislation, it should apply to all media.

In summary, we urge elimination of the equal time provision, for presidential and vice presidential candidates, hopefully as a first step toward extending it more broadly. This action will enable broadcasters to present the major candidates in ways they cannot do now and will give the public wider opportunities to see, hear and judge the candidates through the direct contact broadcasting uniquely offers.



We favor the proposal for an all-inclusive spending limitation, because that permits each candidate to decide for himself how to spend campaign funds.

We believe that the lowest-unit charge or any other reduced rate provision imposed by statute should be applied consistently to all media. Broadcasting should not be singled out because it is licensed or because it is particularly effective.

Thank you very much, Mr. Chairman.

Senator PASTORE. Thank you very much, Mr. Goodman.

Senator Cannon?

Senator CANNON. Thank you, Mr. Chairman.

I want to join the chairman in thanking you for your very fine and unequivocal statement on the particular point that was giving me a problem, and I think that is absolutely clear and, I think it is as it should be. I don't think there should be any misgiving that the offer of free time might be withdrawn if such and such didn't occur, or might not be operative if such and such didn't occur. I don't think that is really what we want to see happen here. I appreciate your very clear and unequivocal statement.

Thank you, Mr. Chairman.

Senator PASTORE. Did someone find out if Mr. Baker is coming back into the session?

Will you be patient for a moment?

Mr. GOODMAN. While I am being patient, Senator, I wish to join Mr. Stanton in thanking the committee for its cordiality over the years when we have all testified on this subject.

Senator PASTORE. Thank you very much, Mr. Goodman.

Mr. GOODMAN. Thank you.

Senator PASTORE. Our next witness is Mr. Vincent Wasilewski, President of the National Association of Broadcasters. You are a pretty young fellow, and there will be no tributes to you today.

#### STATEMENT OF VINCENT T. WASILEWSKI, PRESIDENT, THE NATIONAL ASSOCIATION OF BROADCASTERS

Mr. WASILEWSKI. I am glad that I am younger than those other fellows, too.

Thank you, Mr. Chairman. My name is Vincent Wasilewski. I am president of the National Association of Broadcasters, which is located at 1771 N Street NW., Washington, D.C. The NAB is a nonprofit trade association which has in membership 3,605 AM and FM radio stations, 530 television stations, and all national radio and television networks.

I welcome this opportunity to support the enactment of S. 372 and to recommend additional amendments of section 315 and the Campaign Communications Reform Act. As you observed, Mr. Chairman, in your statement introducing S. 372, the 1972 elections have given us our first experience under the Federal Election Campaign Act of 1971, and it is evident that this new law can be improved upon by appropriate amendments.

The experience of broadcasters operating under the law point up several problem areas. I would like to discuss them in the light of S. 372

and its approach to the broad questions of political broadcasting and campaign spending.

The main thrust of S. 372 is to shift the emphasis in controlling campaign expenditures from selective limitations on communications media spending to an overall ceiling covering all campaign expenditures. We wholeheartedly endorse this approach.

Communications media are essential elements in many campaigns for public office, but they are not the only elements. Various other means of communications, transportation, and a wide range of services must also be employed.

Within his overall limitation, the candidate should have the freedom to spend his funds in the manner and on the types of service which he personally deems to be most effective. The present law prescribes limitations only on campaign spending in communications media. Moreover, it contains a provision limiting expenditures for the use of broadcast stations to 60 percent of the total spending limitation. S. 372 would eradicate these features of the law, and we favor these changes because they would permit this necessary freedom to the candidate.

An important question relative to the overall ceiling approach of S. 372 is whether the 25 cents per eligible voter limitation is a realistic figure. This matter is outside our area of expertise, and, accordingly, I will not venture an opinion as to whether 25 cents is too high or too low.

However, I would hope that the testimony elicited in these hearings will insure that a realistic limit is set—be it 25 cents or some lesser or greater amount.

S. 372 would amend the Communications Act to exempt broadcast appearances of candidates for President or Vice President from the "equal opportunity" provision of section 315 of that act. Although we favor complete repeal of the "equal opportunity" provision, we applaud this proposed initial step toward insuring greater broadcast coverage of political campaigns.

By providing fringe candidates the same opportunities as significant candidates, section 315 currently inhibits the extending of free time to significant candidates and thus curtails the ability of the American people to utilize their most effective method of judging among candidates.

Hopefully, if section 315 is amended as proposed in S. 372, the experience gained during the next Presidential campaign will convince the Congress that it should either repeal the "equal opportunity" provision outright, or, at least, extend the exemption to statewide races.

Another feature of S. 372 which broadcasters favor is the proposal to exempt from the certification requirements any expenditure of \$100 or less. During the recent campaign, it became apparent that the new law was acting to foreclose use of the broadcast media to many small local groups which had traditionally purchased time to support Federal candidates of their choice.

Since these groups usually act independently of campaign organizations, they were unable to obtain the required authorization of the candidate to certify on his behalf, and thus were precluded from participating in the political process.

The \$100 exemption will in most cases remove this obstacle to their involvement.

While we fully support S. 372, there are still aspects of the present law which trouble broadcasters greatly and which we believe should be remedied. One is the application of "lowest unit charge." Under section 103(a) (1) of title I of the Federal Election Campaign Act of 1971, stations must sell all candidates broadcast time, during specified periods, at their "lowest unit charge." Conversely, however, under section 103(b) of that title, newspapers and magazines must sell space to such candidates at charges not exceeding "the charges made for comparable use of such space for other purposes."

These provisions of the law place the broadcaster in a different position than the other media with which he is in direct competition for advertising. The situation is further aggravated by the fact that broadcasters have a limited amount of time to sell, whereas competing media normally are open-ended in the amount of space they can devote to advertising.

We submit that this is unfair; and that, if Congress is of the view that candidates should receive "lowest unit charge" treatment, then that determination should apply across the board to all communications media—not just to broadcasting.

Any jurisdictional hurdle such uniform treatment might pose was leaped when the "comparable charge" provisions were applied to nonelectronic media. Conversely, if Congress believes candidates should receive "comparable charge" treatment, then such charges should apply to all communications media.

Finally, I would recommend that the reasonable access provision of the new law be repealed. Section 103(a) (2) of title I of that law amended section 312(a) of the Communications Act to provide for license revocation in the event a station willfully or repeatedly fails "to allow reasonable access to permit purchase of reasonable amounts of time for the use of a broadcasting station" by Federal candidates.

Senator PASTORE. Why is it so dangerous, Mr. Wasilewski? Why is it so objectionable when it says "willfully and repeatedly?"

I think that is going pretty far.

Mr. WASILEWSKI. I think it does injury more to the candidates than it does the broadcasting station.

Senator PASTORE. All right.

Mr. WASILEWSKI. This provision has served mainly to confuse broadcasters as well as candidates, and, I believe, even the FCC which is responsible for its implementation. Furthermore, we believe this provision is unnecessary and has had the unexpected practical effect of inhibiting rather than promoting access by Federal candidates.

The FCC has long held that under the "public interest" standard of the Communications Act, a station must devote time to those political races which are of greatest interest and significance to its service area.

It is extremely unlikely that pertinent Federal election races would ever be considered insignificant under the public interest standard.

As a practical matter, the reasonable access provision has served to limit access by those candidates who desire to utilize broadcast facilities. This happened because many broadcast licensees presume, and perhaps correctly, that the law requires them to be prepared to sell a reasonable amount of time to every qualified Federal candidate, no matter when the request is made.

Thus they are forced to assume that during any given segment of the campaign every Federal candidate will request time. In order to be capable of roughly meeting this possibility, and in fear of the specified consequences of they do not, they have prepared and distributed to Federal candidates a rundown on the number of spots announcements each candidate will be allowed to purchase in terms of class, period of day, length, et cetera.

Now I don't believe anyone would deny this practice is eminently fair and certainly assures reasonable access to all Federal candidates. But often the end result is that those candidates who wish to avail themselves of the broadcast media cannot purchase as much time as they would like.

In effect, time is reserved for candidates who may never use it to the detriment of those who want to use it. In sum, we believe the provision has caused much confusion and has operated to the detriment of candidates, rather than to their benefit.

In closing, I wish to reassert our support for the enactment of S. 37 and to urge that this subcommittee consider the problems caused by "lowest unit charge", "equal opportunity", and the "reasonable access" provisions of the Communications Act.

Senator PASTORE. If the Congress is not of a mind to change section 312, would you think that the solution to the problem might be for the FCC to set up some guidelines so that the broadcasters and the candidates would know exactly?

I think most of the trouble arises, I suppose, within a few hours before the election, where a candidate feels that he is either behind, or he is not running so well, but he wants more exposure. He needs more time. That would compel a broadcaster, maybe, to knock off certain programs that are more desirable to the public than listening to a politician making a political speech. In that case, that would create a dilemma.

Mr. WASILEWSKI. Or not sell so much time to the first as to deny equality of treatment to the second.

Senator PASTORE. If the Congress is not of a mind to repeal section 312, it might be well for the FCC to set up guidelines so we know pretty much what they would construe to be a willful or repeated refusal to grant access. Dean Burch, when he came before the committee, said this:

It seems to me in such a situation, the Commission must look primarily at the reasonableness of the station's action under the whole circumstances, and I would assume that a station's actions would have to be clearly unreasonable before we would undertake to revoke a license. On this subject, it was not intended that during the closing days of the campaign, stations should be required to accommodate requests for political time to the exclusion of all or most other types of programming.

I think myself that rather than just a general statement, we ought to set up some guidelines.

Mr. WASILEWSKI. I am not saying, sir, that any station has gotten in trouble because of this action, but I do believe that stations in order to protect themselves against allegations of improper treatment and unfair treatment, have, on occasion, not made available as much time to candidate X as candidate X might have wanted to purchase.

Senator PASTORE. That is true, but we know of a case where a certain gentleman was running for the office of Senator in Texas. He had purchased the time, and he was ready to go there and broadcast, and when he got there, they told him the engineer wasn't there.

Why the engineer wasn't there, of course, was quite obvious. As a matter of fact, the station itself was not too friendly to this candidate's campaign.

These are the things that happen that give rise to this kind of a provision. That is really why it was done. There have been instances where certain individuals, who are licensees, for one reason or another, take sides in a campaign and they feel this is the better way either to elect or defeat a candidate.

I think we ought to have some reassuring guidelines, if we can't do something about modifying it.

Senator CANNON?

Senator CANNON. I think, Mr. Chairman, that one of the dangers there is not the fact that a license revocation might occur. But that in the absence of guidelines someone might make such a charge, and the station would have to go through a license revocation procedure, which is a very costly process and certainly very difficult. They would have to do this even though they may, in good faith, have done everything that they thought they should do. This is where the real danger lies, if this is left to stand or if the FCC doesn't outline specific guidelines for them to follow.

Mr. WASILEWSKI. I think the FCC in the last election was very reasonable, sir. I am not making any allegation or complaint.

I don't think neither did they know how to properly interpret this thing.

Senator CANNON. Thank you, Mr. Chairman.

Senator PASTORE. Thank you, Mr. Wasilewski.

This concludes the list of witnesses today, unless someone in this room wants to testify for or against the legislation.

In the absence of that, we will recess until Tuesday next at 1 p.m.

(Whereupon, at 11:20 a.m., the hearing was recessed, to reconvene on Tuesday, March 13, at 10 a.m., in the same place.)



# FEDERAL ELECTION CAMPAIGN ACT OF 1973

TUESDAY, MARCH 13, 1973

U.S. SENATE,  
COMMITTEE ON COMMERCE,  
COMMUNICATIONS SUBCOMMITTEE,  
*Washington, D.C.*

The subcommittee met at 10:10 a.m., in room 5110, New Senate Office Building, Hon. John O. Pastore, (chairman of the subcommittee) presiding.

Senator PASTORE. We will continue these hearings. It is now 10 minutes past 10, and while other members have not appeared, I am quite sure that during the progress of the hearing they will show up.

As you gentlemen know, we usually have a number of meetings running at the same time. As a matter of fact, I have four this morning, but I give this primary attention because I am chairman of the subcommittee. That is the only reason why other members are not here. They have other commitments, but they will be here.

This morning, we are honored to have as our first witness, Mr. Phillip S. Hughes, the Director of the Office of Federal Elections, U.S. General Accounting Office. We have a written statement here. Mr. Hughes, you may proceed.

## STATEMENT OF PHILLIP S. HUGHES, DIRECTOR, OFFICE OF FEDERAL ELECTIONS, GENERAL ACCOUNTING OFFICE

Mr. HUGHES. Thank you, Mr. Chairman.

I would like, if it is agreeable with you, to read the statement. It is fairly short and covers some ground which I believe the committee has not thus far covered in its hearing.

Senator PASTORE. All right, if you like. Proceed.

Mr. HUGHES. Mr. Chairman and members of the subcommittee, I am pleased to have this opportunity to present the views of the General Accounting Office on S. 372, a bill to repeal the equal opportunities requirements for Presidential campaigns and to amend the Campaign Communications Reform Act to impose an overall limitation on all spending in Federal election campaigns.

We have no substantive comment on the provision of the bill which would repeal the equal opportunities requirements of section 315(a) of the Communications Act of 1934 with respect to Presidential campaigns since this provision is outside our jurisdiction. We note, however, that such a repeal would allow substantial amounts of free broadcast time to be given Presidential candidates, in effect, increasing their spending limitation, while no such benefit would be available to candidates for the Senate and House of Representatives.

S. 372 would remove the present limitation in title I of the Federal Election Campaign Act on campaign spending for the use of the communications media (television, radio, newspapers, magazines, outdoor advertising, and telephones) and replace it with an overall limitation on campaign spending for any purpose. The existing act allows each Federal candidate to spend a maximum of 10 cents times the voting age population of the area in which the election is held for communications media, of which not more than 60 percent of that maximum may be for broadcasting. Under S. 372, each Federal candidate would be allowed to spend up to 25 cents times the voting age population of the area for all purposes, without any separate limitation on communications media generally or broadcasting specifically. Under the bill, the definition of expenditures subject to the 25 cents limitation would include virtually every conceivable loan, gift or expense which is "made for the purpose of influencing" the election of a Federal candidate, from the leasing of neighborhood storefront office to the procurement of office supplies for use by campaign employees or volunteers. Bank loans made in the ordinary course of business and volunteer services are specifically accepted.

The bill does not amend title III of the act under which Federal candidates and political committees are required to report all receipts and expenditures to the appropriate supervisory officer; the Secretary of the Senate for Senate candidates and committees; the Clerk of the House of Representatives for House candidates and committees; and the Comptroller General for presidential and vice presidential candidates and committees.

Mr. Chairman, we applaud your statement in introducing S. 372 calling for a wide range of views and recommendations during the hearings. We offer the following remarks in the spirit of that statement because we do not pretend to have final answers to the problems of campaign financing.

First of all, while we recognize and share in the general concern over the increasingly high cost of campaigning for public office; the suspicion caused by the need to raise huge sums from private sources; and the deterrent effect of high costs on the candidate or potential candidate who is not wealthy or does not have wealthy backers, we also recognize that the wisdom and feasibility of the Government limiting overall campaign spending in our society can be debated. It has been pointed out, for example, that campaign costs as a percent of overall Government costs, remain small—about one-tenth of 1 percent. Furthermore, an overall limitation on spending cannot cure some of these very legitimate concerns—for example, the problem of the very large contributor.

It is not my purpose, however, to debate the merits of an overall limitation. Rather, I would like to focus on certain problem areas as we see them, in the administration of spending limitations. This is the area in which we have gained some experience in administering the Federal Election Campaign Act of 1971.

The mechanism in S. 372 for insuring that campaign expenditures are counted against the limitation is the same as the present law's title I requirement that the supplier have a certification in writing from the candidate or from a person specifically authorized in writing by the candidate that the expenditure is within the limit set by law. However, since the bill limits overall expenditures, this requirement would



apply not only to communications media suppliers, but to all suppliers of goods and services in excess of \$100 for the benefit of any candidate in connection with his campaign. Any person furnishing goods or services for the benefit of the campaign in an amount exceeding \$100 would be obligated, subject to criminal penalties, to demand a written certification from the candidate or authorized representative that payment for the goods or services would not exceed the applicable limitation. This presupposes that a vendor can readily determine when his services or products are being obtained "for the benefit of" a Federal candidate's campaign. How can the vendor know this in all cases? Also, how does the vendor respond to the purchaser who disclaims intent to benefit a Federal candidate but who nevertheless may be doing so?

For example, a county committee of the Democratic Party seeks to order direct mail materials advocating the election of the entire Democratic ticket in a Federal election year. Another example is the issue-oriented group that is sharply critical of one candidate's position on a major issue in the election campaign and by its opposition necessarily benefits another candidate. We point out that the penalties in the bill run against the vendor, not the purchaser.

Our experience in applying the existing certification requirement to broadcasters, newspapers, magazines, and outdoor advertising firms is relevant here. The telephone uses covered by title I do not require a certification since the telephone company is not in a position to determine what the telephone is being used for—that is, whether to communicate with potential voters, which is covered, or for other purposes, which are not covered.

There has been little use of magazines for campaign advertising and outdoor advertising was not a serious problem in the recent presidential campaign.

Senator PASTORE. Now, may I interrupt at this point?

Mr. HUGHES. Indeed, Mr. Chairman.

Senator PASTORE. I realize that this presents a problem, but I would hope that the only alternative would not be the "sky is the limit."

Now, under the circumstances, what harm would there be in removing this requirement, and making the responsibility completely that of the candidate, if you are going to have an overall ceiling? Now, if you have a selective limitation, as we have now, there may be some justification for this provision. What we were trying to do was to hold down expenditures in the media, and it was relatively easy to require certification in those limited cases.

Senator PASTORE. But now, when you have an overall ceiling that was reasonable why not remove the certification requirement? Do you see any harm in removing the penalty against the person who furnishes the services and make it completely the responsibility of the candidate who has to account for "x" numbers of dollars?

Mr. HUGHES. We are inclined to think that is a better approach, Mr. Chairman. Later in the statement we have a suggestion with respect to an alternative which we suggest be considered and which is appealing to us initially, but we would like to look into it further, however. I will come to that.

Senator PASTORE. All right.

Mr. HUGHES. With respect to newspapers, the situation was both difficult and complex. Despite the widespread publicity given the act, we have found many instances where newspapers have simply failed to require a candidate's certification before publishing campaign advertising. The General Accounting Office worked closely with the American Newspaper Publishers Association and the National Newspaper Association and both diligently advised their members about the act and regulations. In September, we mailed a letter to all U.S. newspapers summarizing the legal requirements applicable during the 1972 campaign. Nevertheless, there are over 8,000 daily and weekly newspapers in the United States and, clearly, not everyone got the word.

The large number, wide geographic spread and independent management of newspapers make the administration and enforcement of a certification requirement extremely difficult. The legal and constitutional problems which we would like to discuss later make it even more so. Finally, the effect of the certification process is to place vital enforcement responsibility on a reluctant and perhaps uninformed third party with separate, conflicting interests of his own. In these circumstances, enforcement by third parties, in our judgment, decreases in effectiveness as their number increases.

Senator PASTORE. Now, from your experience, would you say that maybe exaggerating a bit, and you are not talking about a practical situation at all. I mean you are saying that certain people want to buy ads in a newspaper to help a candidate, and they are doing this very willingly on their own without any discussion with the candidate. You may have an isolated case along that line, but my experience has been that nobody is going to bother too much about spending \$4 or \$500 on a newspaper ad unless he has some contact with the candidate. I think the candidate ought to be held responsible in these cases because I am telling you frankly, in politics, you do not get too much help from people that you do not know about.

I mean, this idea that many, many people spend lots of money without the candidate knowing about it is, to me, an impractical thing and something that is more imaginary than real.

Mr. HUGHES. I think that is true to some extent, Mr. Chairman. However, there were some specific instances where that did happen and it seems to me that they are—

Senator PASTORE. Well, give me an example.

Mr. HUGHES. Well, I will mention two. I guess there is one on each side of the political spectrum. One involves the situation in which we are being sued and I will refer to it more in detail later. That was what was called the National Committee for Impeachment, a group which formed itself on a more or less widespread geographic basis and published an ad in the New York Times advocating the impeachment of President Nixon, essentially on Vietnam war grounds. It did some other things as well.

This was done without the knowledge of any of the candidates endorsed. The ad included an honor roll of candidates, those who in the House had voted to impeach the President. None of them knew that they were to be endorsed. Several of them made known the fact that they did not know and would not have lent their name had they had an opportunity to object. So there was that kind of situation.

Senator PASTORE. Well, in that kind of a situation, would you charge that up to the candidate?

Mr. HUGHES. Well, there were two aspects of that. One of them involved the House candidates where there was a specific endorsement of the election of those candidates, and it is my understanding, although this is the Clerk of the House's business, that he did regard that as an endorsement for campaign purposes of those candidates.

There also was the question with respect to the ad as a whole, whether the advocacy of impeaching President Nixon in the immediate preelection period was, in effect, opposition to his reelection. There were statements in the ad, for example, that said if the impeachment is not successful we will form a new party, the National Liberty Party—I do not recall the exact name, but something of that sort. In any event, there was a significant amount of campaign coloration in the ad as we perceived it.

Senator PASTORE. Well, frankly the way I look at it, first of all, I would laugh it off, that kind of an ad; and second, if my name was included in an endorsement in that kind of an ad to impeach the President on those grounds, I would consider it the kiss of death. Why charge this to the candidate?

Mr. HUGHES. The choices as to what to pursue and what not to pursue are difficult in this business. We had two or three complaints filed under the ad, one by either the Republican National Committee or the Finance Committee to Re-Elect the President—I have forgotten which—and another by Common Cause. Under the act, we have to take action in response to the complaints and, for better or worse, we did.

The ad cost about \$35,000, as I recall it, so that it was not an insignificant piece of business. I am simply trying to illustrate a difficult sort of problem.

Senator PASTORE. Well, how would you overcome it?

Mr. HUGHES. Again, I would come back to your approach which I think is essentially what we are talking about later, try and centralize responsibility for disbursements and for control of a candidate's campaign in identifiable places in such fashion that the right people—at least in our judgment—are responsible, rather than placing the responsibility in this instance on the New York Times, which had a whole complex of conflicting concerns and interests in the situation.

Senator PASTORE. Yes, but why do we charge it to the candidate when he was absolutely dissatisfied, and he was injured because of it? After all, in politics, it all depends on who endorses you. I mean, I would not want to be endorsed by the Devil. I would not call that an endorsement.

Mr. HUGHES. It seems to me the answer lies in centralizing the candidate's control over the advocacy of his positions in such fashion that he can be responsible, and I think this is doable by better means than fixing the responsibility on the media. I think that is the message that I am trying to get across.

Senator PASTORE. Well, I am still trying to overcome the predicament of the Congressman who was endorsed in that ad; you say that the Clerk of the House took the position it was an endorsement?

Mr. HUGHES. Yes.

Senator PASTORE. Which means it is chargeable to the candidate, and the candidate did not want it at all.

Mr. HUGHES. True.

Senator PASTORE. Now, that is the reason why we put that provision in the law. Now, you would knock it out, and that puts the candidates in a rather sensitive and precarious position, does it not?

Mr. HUGHES. It does, indeed.

Senator PASTORE. Unless he disclaims it.

Mr. HUGHES. Well, even under the act, if it is published, even if he disclaims it, it is chargeable against his limitation.

Senator PASTORE. That is right, but a disclaimer is not in the act I am talking about the modification. There is no such thing as a disclaimer in the act now.

Mr. HUGHES. Yes. The handling of opposition—the handling of statement on issues that are important in the campaign but where the advocacy of the candidate is not directly involved is very difficult in controlling expenditures and in variously allocating responsibility for statements. Also difficult is the opposition statement, where someone not advocating anybody simply opposes a candidate, and both of these situations presents some very difficult problems legally and constitutionally which we will talk about.

Senator PASTORE. I agree with you.

Mr. HUGHES. If I could, I will mention one other situation which I think illustrates part of the problem here. Governor Docking, of Kansas, a Democrat, running for office, was reelected, but in the course of the campaign a group of Republicans in Kansas got together some money and published some ads which said essentially, "Nixon-Docking—Men You Can Trust." Query: Under the terms of the act, is the inclusion of President Nixon in this kind of an ad an endorsement of his candidacy? The Republican National Committee or the Finance Committee—I have forgotten which—thought it was, and filed a complaint with us saying that they had given nobody permission to use the media as it was used in this particular situation. Again, a kind of a difficult administration problem.

S. 372 also follows the Federal Election Campaign Act in providing that "expenditures made on behalf of any candidate shall . . . be deemed to have been expended by such candidates." In drafting regulations on this subject, the Comptroller General followed the instructions of the conference report on the Federal Election Campaign Act:

Under this provision, the expenditure limitations of the bill apply to all communications media expenditures on behalf of the candidate, whether made by the candidate, a political committee, an individual, or otherwise, and whether or not the person making the expenditure is authorized by the candidate to do so.

The conference report tied the quoted statement to the certification requirement. Since the candidate was to be charged with expenditures made by unauthorized persons, he would be allowed to control such expenditures and the certification device was intended to enable the candidate to do this.

The Comptroller General's regulations (S. 4.4) therefore provide that any expenditure for the use of communications media "by a candidate, a political committee, or any other person, whether or not the person making the expenditure is authorized by the candidate to do so . . ." is to be charged against the candidate's limitation. We believe

it preferable to specifically include "unauthorized" persons under the limitation by statutory language, rather than by regulation, if, of course, this is the intent of the Congress.

I would also like to discuss briefly the constitutional problems under the present act which would be magnified by extension of the limitation to cover all campaign expenses as S. 372 proposes. I am aware that this committee has concluded that title I of the act is constitutional. It may well be constitutional, but the matter is presently pending before the courts in several suits and more may arise.

*American Civil Liberties Union v. Jennings* is a civil action, filed in the U.S. District Court for the District of Columbia, against the Clerk of the House, and the Comptroller General and myself, contending that both title I and title III of the act are unconstitutional. The case arose when the New York Times refused to carry an ACLU ad which criticized President Nixon for his position on busing and named 108 House Members (many of whom were candidates for reelection) as deserving of "support in their resistance to the Nixon administration bill." The Times refused this ad because the ACLU did not furnish either a certification from each of the House Members who were candidates for Federal office or a statement that no Federal candidate had authorized or consented to the expenditure incident to publication of the advertisement.

We took the position that the Times was incorrect in its interpretation of the law and regulations as requiring certifications. In our view, the ad did not advocate any candidate's election and hence the Times could have published the ad if it had obtained a statement from the ACLU that no Federal candidate had authorized or consented to the ad.

This ad, if I may interpolate, Mr. Chairman, was somewhat different in tone and context than the one I referred to before and seemed to us was an issue ad and therefore could and should have been published.

A special three-judge court issued an order allowing the advertisement to be published but reserving decision on the merits of the case. The case is still pending and both plaintiffs and defendants have filed motions for summary judgment.

A civil suit brought by the Department of Justice on GAO's behalf under title III of the act is relevant because it involves the definition of campaign expenditure in title III of the current law which is adopted in S. 372.

In May 1972, the National Committee for Impeachment placed a newspaper advertisement in the New York Times that urged President Nixon's impeachment on the grounds of his Vietnam war policies. This is the one I was referring to earlier, Mr. Chairman. The advertisement also endorsed several House candidates by name and pledged financial support to them and to any other candidates who declared themselves in favor of the committee's objectives. After several complaints were submitted, we determined that payment for the advertisement was an "expenditure" for the purpose of influencing the election of presidential candidates under title III and, therefore, that the National Committee for Impeachment was a "political committee" subject to the registration and reporting requirements of title III. The Clerk of the House made the same determination for congressional candidates.

When the committee failed to register, we referred the matter to the Department of Justice for civil proceedings under section 308 of the

act. The District Court, Southern District of New York, granted a preliminary injunction enjoining the National Committee for Impeachment from operating as a political committee. However, the U.S. Court of Appeals for the Second Circuit reversed, holding that the statutory definition of expenditure means "an expenditure made with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate or his agents." The court also construed title III to apply "only to committees \* \* \* making expenditures the major purpose of which is the nomination or election of candidates."

This narrow construction of the coverage of title III may prove to be an invitation to develop new theories of avoiding disclosure of campaign financing. If S. 372 incorporates the definition of "expenditure" from title III, then similar issues of interpretation can be anticipated. We have recommended to the Department of Justice that it seek to have the Supreme Court review these issues. The Solicitor General will decide this month whether or not to file a petition for certiorari with the Supreme Court.

The constitutional issues would be compounded under S. 372 because a Federal candidate would have a veto power not only over media advertising, but also over any campaign spending for his benefit, including such traditional free speech categories as handbills, posters, buttons, et cetera.

One alternative method of controlling expenditures is set forth in the Florida Election Code. In addition to prescribing limitations on both contributions and expenditures, the Florida law requires that all contributions, expenditures, or obligations which are "made, received, or incurred, directly or indirectly, in furtherance of the candidacy of any candidate for public office, \* \* \*" must pass through "the duly appointed campaign treasurer or deputy campaign treasurer of the candidate." As a condition precedent to qualifying as a candidate, and individual must appoint one campaign treasurer and designate a campaign depository.

Deputy treasurers may be appointed as needed and limited number of additional campaign depositories may be designated. The campaign treasurer retains ultimate responsibility for the accounts of all appointed deputy treasurers. Incidentally, Mr. Chairman, transactions are by check entirely in this process, also.

Candidates who are elected may be subject to suspension and removal from office if convicted of a violation and the making of any false certificate, statement, or report carries the penalties of perjury. In summary, the civil and criminal liabilities for noncompliance with the Florida Election Code attach mainly to the candidates or campaign officials who are in the best position to have control of the entire campaign financing operation. The supplier of goods and services may face a criminal penalty if he knowingly violates the act, but, otherwise, he would face only the unpleasant prospect of not being paid or the possible revocation of his license, if he is a licensee of the State.

In summary and conclusion, Mr. Chairman, I do not believe the machinery of the Federal Election Campaign Act provides adequate administrative and enforcement support for limiting total campaign expenditures. We have tried to indicate the difficulty of administering even the present law with this machinery. Legal, constitutional and

administrative problems abound even under present law, once we move beyond the radio and television industry.

Some of our comments on S. 372 reflect our judgment that amendments to title I of the Federal Election Campaign Act are desirable even if the scope of the existing law limiting campaign spending is not increased. We intend to set forth these amendments in written comments to the committee at an early date.

Meanwhile, the following are brief general comments regarding the more important of these amendments, applicable to S. 372 as well as to existing law.

1. We recommend that the committee consider whether the approach taken by the Florida law is appropriate in connection with the Federal election campaigns. We have not yet had an opportunity to study the actual operation of the Florida law.

2. We recommend that the committee consider other sanctions in addition to the criminal penalties set forth in the act. Civil penalties involving substantial fines might be extremely helpful in some circumstances.

3. We recommend that the supervisory officers be given the authority to issue subpoenas and to initiate court action. The Presidential Election Campaign Fund Act, Public Law 97-178, gives the Comptroller General such authority in connection with his responsibilities under that act.

Again, Mr. Chairman, we appreciate the opportunity to be here and express our views on this important legislation and we will be pleased to work with the committee or its staff in any way we can to improve the processes by which the campaigns are financed and by which such financing is controlled in the public interest.

Senator PASTORE. Thank you very much, Mr. Hughes, for a very fine and illuminating statement. After all, there is no one better qualified than you to point out some of the deficiencies or shortcomings in the present law, and the difficulty that you have experienced in its administration.

I would hope that you would be in close contact with the committee counsel.

Mr. HUGHES. We try to stay that way, Mr. Chairman.

Senator PASTORE. And we await with great anticipation the recommendations that you will make. Fundamentally, I believe they will be more within the jurisdiction of the Rules Committee.

Mr. HUGHES. We understand that.

Senator PASTORE. They would be very much interested in some of the comments you have made. We are going to refer your statement to their staff and I think they ought to be in touch with you as well.

Mr. HUGHES. Thank you.

Senator PASTORE. I realize the complexity of campaign procedures, raise so many questions that sometimes some of the problems almost appear insurmountable. But we must have some kind of a gage in order to keep campaign expenditures in the proper context. I am afraid that unless we do, and in view of the way we are going, expenditures will get out of hand. This leads to cynicism on the part of the public. More than that, it defeats the whole purpose of our democratic process, because who is going to campaign against someone who has millions of dollars at his disposal to win a particular office if he

cannot match it? That not only discourages the people, but it leaves a bad taste in the mouth of the public generally.

Whatever we can do to modify the law in order to perfect it would be a welcome. I want to congratulate you for your statement and I hope that we may have your cooperation in the future.

Mr. HUGHES. Well, thank you, Mr. Chairman. We surely can contact them.

Somewhat as an aside, I guess, I share your feelings about the complexity of the act. I think the suits by ACLU are a rather interesting phenomena. They certainly are a novelty in my experience. I have never been sued before. They are particularly novel because I am a member of ACLU, so I am financing my own suit, I guess, in some sense, and I think it is illustrative of some of the dilemmas that confront us in this rather difficult field.

Senator PASTORE. Well, now, on this question of obtaining the consent of the candidate, you have a lot of parochial papers and organization papers. For instance, the Chamber of Commerce has a regular newsletter as does the American Legion and the Veterans of Foreign Wars. Some unions do, too. These papers resent this idea that they have to go to the candidate. It is not the candidate that they are interested in so much as they are the philosophy that he represents. That places them in the position of becoming subservient to a candidate, even though it is not the personality that they are interested in; it's just the idea. And these papers are circulated within their own organization, and they have a very sensitive feeling that somehow their being compelled to go to the candidate impinges on their right of free speech. This raises a problem.

We will have to wrestle with that, too. But we had no alternative at the time because it is so easy for one to say. "Well, I did not consult with so and so; I think he is a good man and I just want to spend a barrel of money to see that he goes to the Congress." The big question that arose in that instance, is how can you ever have any kind of a ceiling if that is allowed? And there you are, and it is not an easy thing.

Mr. HUGHES. It is extremely complex. I think something that I hope is very clear is the fact that I personally feel that the Federal Election Campaign Act represents a sort of quantum jump, an advance forward from where we were before, despite the problems that I have talked about and other problems, and I am glad to have had a part in the administration of the act, and despite the occasional pain and strain, I have enjoyed it and regard it as worthwhile.

Senator PASTORE. And you notice how much more liberal the courts have been allowing people to print matter. There is a tremendous sensitivity when it comes to the first amendment and there should be. I don't think that anybody ought to be inhibited from speaking his mind.

Mr. HUGHES. True.

Senator PASTORE. Any questions of Mr. Hughes?

Senator COOK. Mr. Hughes, I owe you an apology for being late.

Mr. HUGHES. No apology is necessary.

Senator COOK. I was just thinking, in listening to the tail-end of your conversation, Mr. Chairman, and Mr. Hughes, that a rather serious problem is presented with the Congress in wrestling with shield laws and in making a determination, who is and who is not a reporter.



In following Senator Pastore's logic that a publication would have to go to a candidate, or think that it would have to, I am afraid those publications would then say, "Well, does the editorial staff of a newspaper have to go to a candidate and say they are going to write an editorial endorsing you? Is that all right?"

One returns to that theory of "I'll be for you if you want me to campaign for you, or I'll be against you if you want, whichever." I am afraid this would cause an insurmountable problem.

Mr. HUGHES. The argument is being made by some of these organization periodicals and newspapers and newsletter that there is no restriction upon editorializing by a newspaper on a candidate, so why should they have a restriction? So it works the other way, too.

Senator COOK. That is true.

Senator PASTORE. And it is a problem. We are going to wrestle with it, and see what we can come up with. But, like you say, this is a quantum jump forward and I would hate to see it go down the drain.

Mr. HUGHES. So would I, Mr. Chairman.

Senator PASTORE. Thank you very much, Mr. Hughes.

Senator COOK. Thank you, Mr. Hughes.

Senator PASTORE. We have a brief here by the Library of Congress directed to the committee, and I ask that it be placed in the record.<sup>1</sup>

Now, we have Dr. Alexander.

#### STATEMENT OF HERBERT E. ALEXANDER, DIRECTOR, CITIZENS' RESEARCH FOUNDATION

Dr. ALEXANDER. Thank you, Mr. Chairman.

I am happy to respond to the invitation of this subcommittee to testify on some considerations which bear on S. 372. My testimony is my own and does not necessarily reflect the views of members of the Board of Trustees of the Citizens' Research Foundation, which as an organization does not take positions on public policy.

In recent years there has been much comment about the high cost of politics. The rise has been dramatic. I estimate that \$400 million was spent in 1972 for all elective and party politics in this country at all political levels, in campaigns for nomination and for election. This represents a 33 percent increase from 1968. It represents an increase of almost 300 percent since 1952, when the first national total was estimated.

But political costs need to be considered in perspective. Considered in the aggregate, politics is not overpriced. It is underfinanced. \$400 million is just a fraction of one percent of the amounts spent by governments at all levels, and that is what politics is all about, gaining control of governments to decide policies on, among other things, how tax money will be spent. \$400 million is less than the amount spent in 1972 by the two largest commercial advertisers in the United States. The important consideration is not the costs as such, but whether they are essential for a competitive and responsive political system.

Nevertheless, the amounts that are considered to be needed for any single campaign may be formidable. Political money is relatively scarce, and there is great competition among many candidates and committees at the various levels for financial assistance from those

<sup>1</sup> See p. 228.

who are willing to give. Anyone who has contested elections knows how hard it is to raise political money. In many cases, fund raising simply has not kept pace with rising costs.

Political costs tend to be high because the political season is relatively short, and intensity must be high for each candidate just before an election. Our system of elections creates a highly-competitive political arena within a universe full of non-political sights and sounds also seeking attention. In this world, politics registers relatively low interest, and what interest there is tends to be diffused among many levels of candidacy and contention. Candidates and parties are not just in competition with each other, but also are in competition with commercial advertisers possessed of large budgets, advertising on a regular basis, often through popular entertainment programs on television and radio.

With that preface, I would like to try to come to grips with what seems to me to be a major controversial aspect of the legislation before you, the arguments for and against limitations on campaign spending.

The arguments favoring limitations on spending are: that money has come to affect the democratic idea of equality of opportunity for public office, that the man of little or no wealth increasingly finds it difficult to enter public life, that the well-financed candidate has an unfair advantage and with a media blitz may win; that the ill-financed candidate has too little chance to win nomination or election or may obligate himself to special interests in order to meet the competition of mounting costs. All these arguments are verities to some extent although no comprehensive studies of the incidence of either wealthy or better financed candidates securing nomination and election have been done to my knowledge. Limitations, in theory, would narrow the range of spending, and this would tend to reduce the imbalances that sometimes exist in financial aspects of campaigning. Limitations, in theory, would diminish the need for funds, and this would tend to reduce the need or temptation to accept contributions with strings, explicit or tacit, attached.

The arguments against limitations are more complex, and their brunt is that if limitations are not effective, then they are illusory and breed disrespect for the law, and if they are effective, then they may inhibit free expression.

The President's Commission on Campaign Costs, in its report in 1962, "Financing Presidential Campaigns," asserted its belief that both overall and partial limitations were unenforceable while full disclosure is a better way to control both excessive contributions and unlimited expenditures. The Commission stated: "The imposition of 'realistic ceilings' or 'segmental limitations,' the latter designed to limit expenditures for certain purposes, for example, broadcasting, which has been urged by some, would only create a false impression of limitation. Moreover, there is doubt whether individuals could be prohibited from making certain expenditures, instead of contributions if the latter were effectively limited, in view of constitutional guarantees of freedom of expression" (p. 17). Essentially, the same position was taken by the report of the Committee for Economic Development, "Financing a Better Election System" (1968) and by the Twentieth Century Fund Task Force report, "Electing Congress: The Financial Dilemma" (1970). In any case, partial limita-

tions applying only to the communications media were enacted by the Congress in the Federal Election Campaign Act of 1971. The items chosen for limitations are the major means of communicating with potential voters; ironically, some items, such as broadcasting, may be the most efficient and economical ways to reach certain constituencies with the greatest impact. Whatever their merits, such partial limitations, particularly those relating to broadcasting, are more readily enforceable, because of the Federal power to regulate broadcasting and because of the limited number of larger purchases that are made in the communications media. But it gets progressively harder to keep track of what a candidate or his supporters are spending on such easily manufactured items as bumper stickers or other printed materials; anyone with an offset machine or, I might add, a mimeograph machine, is a printer. When salaries for workers and disbursements for registration or get-out-the-vote drives are involved, it becomes increasingly more difficult to control expenditures. The requirement to issue certificates for each outlay becomes burdensome for both the campaign organization and the seller of goods and services. The concept that all expenditures in excess of \$100 must be certified gives the central campaign an increment of power to prevent outsiders from participating and seems an overreaction in that it will inhibit voluntarism in ways that may not be salutary.

Enforcement of overall limitations is most difficult, even given strong and effective enforcement agencies. There are many openings for disbursement to support a candidate: (1) through party, labor, business, professional, or miscellaneous committee, if not through his own candidate committees; (2) through direct disbursements by the candidate, his family, or other individuals (not channeled through organized committees); (3) through issue organizations such as peace groups and gun lobbies. In the circumstances that money will likely carve new channels, limitations can readily become unenforceable, and thus a mockery. The regulation of political finance has been marked too often by lack of serious enforcement. There is little point in enacting legislation that is likely to be unenforceable without changing the modes of campaigning or without infringing upon first amendment rights.

Paid or published endorsements by labor unions or other groups or individual supporters would presumably fall within the candidate's limitation. Overall limitations might be politically obnoxious, for the candidate would have to tell some potential supporters that they could not campaign on his behalf, if costs are involved. This raises constitutional questions because an effective limitation would give to candidates discretion to prohibit free speech by empowering them to refuse to authorize certain expenditures by potential supporters. For example, a group seeking to publicize its support of a candidate may determine that the most effective way to reach the public will be through a broadcast endorsement. To prohibit such a broadcast might be construed in the courts as the same thing as prohibiting free speech—on the theory that an expenditure for speech is substantially the same thing as speech itself, because necessary to reach large audiences, and is therefore protected by the first amendment. The same theory may apply to an individual who seeks to broadcast his own support of a candidate. The constitutional issue is how far

the Congress may go in protecting the purity of elections without abridging freedoms guaranteed under the first amendment. The judicial presumption could well be against enforced surrender of rights unless justified by the existence and immediate imminency of danger to the public interest. One wonders whether the courts would find the use of money in elections sufficiently dangerous to justify, in effect, giving the candidate discretion to prohibit speech—or even, in effect, limiting the candidate's own speech over an effective medium.

The ways the courts have affected other electoral issues—reapportionment, voting rights, the 18-year-old vote—there is no gain saying what the courts would do, but I suspect they would ultimately opt in favor of more rather than less speech, especially in political matters.

Admitting at the same time that Congress can legislate to protect the purity of the electoral process, should not the burden be on those proposing or enacting such laws to prove that damage to the integrity of the process is being done under the present system? How can such evidence be gathered to be presented in a court of law?

Two State cases relevant to the provision for candidate certification to vendors that the incurred expenditures will not cause the candidate to exceed the limits give no clear answers. A Wisconsin law forbade anyone not a candidate or committeeman from spending money outside his own county for political purposes. Construing the section as empowering candidates or political parties with authority to prevent independent persons from spending money to urge their views on government practices, the court stated. "If this is not an abridgment of freedom of speech, it would be difficult to imagine what would be." (*State v. Pierce*, 183 Wis. 615, 158 N.W. 969). The Florida Supreme Court, in ruling on the Florida law of agency requiring that contributions and expenditures be channeled through an agent, upheld the statute as an acceptable exercise of legislative power to curb corruption in elections. (*Smith v. Ervin*, 64 So. (2d) 166 (Fla. 1953)). How the Federal courts will decide this issue is uncertain.

However, candidate authorization also raises the question of how a person can be drafted for nomination to political office if money cannot be raised on his behalf without his consent. This problem was raised in Massachusetts in 1964 with respect to the Republican nomination campaigns on behalf of both Barry Goldwater and Henry Cabot Lodge before either would announce his availability. Making the candidate responsible also raises the question of how he can ascertain the existence of all supporting committees or whether he is receiving complete financial information from them. A better approach to the problem is contained in the Federal Election Campaign Act system for registering all committees which anticipate receiving or expending funds on behalf of any Federal candidate; then the supervisory officers have available lists of which committees are supporting which candidates.

The amount of any limitation must be arbitrary because political exigencies change and what was spent in one campaign in one year or place may be inadequate for another. There are so many variations in regions, campaign practices, and costs in a country as heterogeneous as the United States that fair, uniform limits are difficult to achieve. What happens when a candidate has carefully programed his spending to stay within the limit, and a new allegation is made which needs

answering on television, but he cannot adequately catch up with the original headline without violating the limit? If limits are too high, they may spur spending to that level. If limits are low, they invite forms of evasion—such as channeling funds to committees that attempt to influence opinion on issues helpful to a given candidate or to committees that speak out against an opponent rather than for a candidate. No agency can monitor such evasions, which can often occur across State boundaries.

If limitations are too low, they fail to recognize political necessities. One reason that costs are relatively high is that in some areas party identification may be diminishing, and there is certainly more ticket splitting, so candidates think advertising can effectively get their names before potential voters. Gallup polls show that between 25 and 30 percent of respondents consider themselves independents, and the figure has risen in recent years. A Gallup poll shows that as many as 54 percent say they have split their tickets. Many voters now get their perceptions less from traditional means, such as family or party allegiances, than from the media, particularly the broadcast media, in the form of both news and advertising. Many major campaigns, particularly those of challengers in primaries, are won mainly by means of identity campaigning over the broadcast media. To artificially limit these modes of campaigning is to tend to disadvantage the challenger who is not as well known as the incumbent or the celebrity. The challenger may well have to spend more on the broadcast or other media to get recognized across the State; the reformer challenging the party organization may well have to spend more. In some States a campaign in a primary can be as or more expensive than a general election campaign.

One can argue that if the political system is to be kept open and responsive to challenge, then limitations are undesirable because they tend to favor the status quo. The rates of successful challenge against congressional incumbents are rather low. Limitations reinforce the advantages incumbents already have, given the franking privilege, field offices, and staffs paid for by the Government.

One of the key goals of the political system should be a more highly competitive system, because that helps to make the system more responsive. Limitations tend to reduce opportunities for voters to learn something about candidates, but even more significant, ceilings reduce opportunities for voters to learn something about politics, that is, that the political season is here and an election is coming up. Electioneering helps to structure and politicize society, and this is periodically essential to the smooth functioning of a democracy.

Of course, the option of the challenger to spend more is only theoretical unless he raises enough to spend more, or unless he is wealthy. But leaving these possibilities open serves as a safety valve to permit challenges when entrenched interests or policies become unbearable. The opportunity for antiestablishment or peace or black or whatever candidates to challenge successfully is essential to responsible and responsive Government.

To oppose limitations is not necessarily to argue that the sky is the limit. In any campaign there are saturation levels and a point where spending no longer pays off in votes per dollar. Commonsense dictates that only marginal benefits can be derived from unlimited spend-

ing. An essential way to deal with fund imbalances and undesirable sources of funds is to maintain meaningful disclosure and publicity laws.

A comprehensive and effective public reporting system helps to control excessive spending and undue reliance on large contributions from special interests, but it is well to remember that the availability of money for a given campaign may be an inherent effect of our democratic and pluralistic system—either the constitutional right to spend one's own money or to financially support candidates with congenial viewpoints or a manifestation of popularity. This is not to say that monied interests do not sometimes take advantage of a candidate's need for funds, or that candidates do not sometimes become beholden to special interests. They do, but that is part of the price we pay for a democratic system in which political party discipline is lacking and the candidate (and some of the public) may value his independence from the party.

To counteract the advantages of incumbency or of wealth, we need not enact questionable ceilings, but rather look toward establishing floors. By floors are meant minimal levels of access to the electorate for all legally qualified candidates.

Senator PASTORE. How would you do that?

Dr. ALEXANDER. If I could just finish—this shifts concern to guarantees of free broadcast time or free mailing privileges or subsidies that assure that candidates will get exposure to potential voters. Tax incentives, while not assuring minimal access for any candidate, are desirable in that they may help develop alternative sources of funds so that candidates can reduce their reliance upon large contributions from self, family, special interests, or others. Some combination of programs leading toward guarantees of access would be a major improvement over the system we now have.

Senators, you must balance the case for greater competition in an open political system with a safety valve to permit effective challenge against the case for delimiting the advantages of wealth in the political process. This is a matter of values but also of presumed constitutional rights to be weighted in the balance. Permitting unlimited use of money by candidates and their supporters does violence to our sense of fairness and of the democratic ideal of equality of opportunity, but it also offers the possibility of enlarging the dialog by encouraging the voicing of varying points of view and also of increasing the possibility of competition for public office. It seems to me you must consider social costs to the system as well as political costs per se.

Senator PASTORE. Well, Doctor, I want to thank you for your statement. Of course, you have long maintained the position—and I respect it—that merely a disclosure law would be sufficient. Of course, you have added something else here today, the floor. Of course, that may be ahead of its time, the subsidization of any campaign from public funds. At this moment, I think, myself, you are whistling in the dark and I do not think the Congress is ready to accept it and I do not think the people of the country are ready to accept that.

Of course, the thing that concerns me is not so much the \$400 million that we talk about; it is the lopsidedness of it. The tremendous amounts of money that are being spent in some places for reasons sometimes that become rather scandalous. This, of course, is an accusation that

cannot be leveled at both parties. I think that both parties have been more or less guilty of it.

What we try to accomplish here, if we possibly can, is some limitation that will bring some common sense to this whole process. I realize you raise a constitutional question. In the process you may be inhibiting the right of free speech, and I would assume that a case would be taken to the Supreme Court. I would hope that it would go to the Supreme Court so that we would have a final judgment on that. But we have had limitations on spending for a long, long time in our statutes. Of course, at one point, they were ridiculous. There was a limitation on how much a Senator could spend, or how much a Congressman could spend, and the law was never changed to meet the changing times. It became so ridiculous that it wasn't enforced and, as a matter of fact, it was never lived up to. The one we have now, I think, works reasonably well.

The only trouble is that because we let the floodgates open in other categories, much of the money went into them. What we are trying to do here is to reach a figure that is reasonable, not a figure that inhibits the right of free speech, but just so that it does not get scandalous and get out of proportion.

When you realize that a man has to spend \$2.5 million to win office in the Senate, you wonder sometimes if there is not a tremendous waste. On the other hand, you cannot limit a challenger too much because, after all, he is not as well known as the incumbent.

I am not saying that the spending of money is necessarily the key to winning an election. I have found in my case—for example, each time I ran, excepting the last time. I always ran against a millionaire. Luckily they were defeated and I was elected.

But the point is, at what point do you say that this thing has gotten out of hand. Is there some responsibility on the Congress of the United States to bring it within a reasonable context?

Now, maybe we are on the wrong road. Maybe you are on the right road. But, as Mr. Hughes testified, only a short while ago, he thought that this was a quantum jump forward. You heard him say that. Now, naturally, there are some imperfections in this law that raise certain problems we hope we can cure. I have reached a point in my own mind—and there may be disagreement on the part of others—I do not know what the Congress of the United States is going to do about it at all—but I have reached the conclusion in my own mind that you ought to have an overall ceiling. We have had cases where certain people have been denied a seat in the House or in the Senate for the way they conducted a campaign and, after all, the two bodies are the judges of the qualifications of their own membership. This ought to come into play.

I am not saying this in any sense of criticism of the people that contribute \$250,000 and \$2 million, but people have a right to say, "What is his angle? Why?" And there ought to be a limit to it because I am afraid if you put the democratic process up for sale it is not a good thing to do. I quite agree with you that we ought to have a very strong disclosure law but I do not think that is the complete answer. I do not think that is the complete answer.

In my State, each of the candidates—one spent a little over half a million dollars and the other spent just under a half a million dollars. I'm telling you, as I look at it, I do not see how I could ever raise

that kind of money without being beholden to a lot of people I do not want to be beholden to. If it is going to cost that amount of money for me to be elected to the Senate, I would just have to give it up. I would just have to give it up. I could not raise that kind of money. I would not want to raise that kind of money. I am afraid I would have to curtsy to too many people.

Senator Cook. Dr. Alexander, I am glad to have you back. You testified in 1971 and I think there is a great deal of merit in what you say. The chairman and I disagree on some things because I think we have reached that impasse in the discussion as to whether this country will succumb to the process whereby Government will take over the financing of campaigns or whether we will leave it up to the decision of the American people to back the candidate of their choice.

I think it is all too easy, as a matter of fact, to say, "What is somebody's angle?" You know, his angle may be just as much believing in his country and wanting to keep a system the way he wants it to be. What was the Ford Motor Co.'s angle or Johnson & Johnson or a million other companies in the United States—or hundreds of other companies—in taking tremendous amounts of their stocks and giving them to foundations? Many of them have done remarkable, fascinating work. Should those people be condemned because they did not keep the stock so they could pay for taxes to the Federal Government, or are they really doing something good?

I think we are on a collision course, as a matter of fact, because I happen to think that you are right. I happen to think that we are talking about the history which is going to be written about Government. As I am very vividly aware, the budget this year is \$269.5 billion and it costs, as you said, and very appropriately so, approximately \$400 million to run the entire political process of the United States. To have a say and to have a control in the operation and the expenditures of that tremendous sum to spend less than 1 percent of that total for the opportunity to be in that position of Government does not seem to me a great deal of money when you put it in perspective.

So I would only say to you that I think we do play games with free speech. I think we have already played games with free speech and I could not run a campaign for a half a million dollars. I think my campaign in the State of Kentucky—and I think it is about three times the size of the State of Rhode Island—was somewhere near \$300,000 or less 4 years ago. But I just have a feeling that we have come to that point, truly and really, of trying to prepare a bill to limit the free expression by a candidate, because we are making a candidate responsible for everything in his campaign.

We have come to the point where we have to say we have reached that particular juncture in Government where we are going to impose on the Federal Treasury the responsibility of financing elections—and I might say that I disagree with Senator Pastore on one thing, that he does not think the country is ready to accept it. We had the networks here who said they were willing to give 4 hours of free time for candidates to debate for national election, which is quite an expense to the private enterprise system, known as the respective networks. We have found that we now give a credit, minimal as it may be, to the 3 or 4 percent of the American people who want to check off a box on their income tax return.



So maybe we are reaching that juncture and I am not sure I want to be a part of that juncture. I have no illusions about the fact that the Senator from Rhode Island will probably not seek reelection and I suspect that he will compete with his opponent and I suspect he will compete with the amount of media and I suspect he will compete with him in all other broadcast medias and all other nonbroadcast medias, to maintain the remarkable position that he holds in the Congress of the United States and one that this Senator respects a whale of a lot; but I somehow or other do not think, during the middle of his campaign, when it is obvious that he has to raise \$500,000, that Senator Pastore is going to withdraw his name from the consideration of the electorate of the State of Rhode Island because it is going to cost him so much to run that he does not really think he ought to. I think we all find ourselves in that position and, as a matter of fact, what really bothers me about all of this is I tend to feel that as you impose restrictions, because of the loopholes that necessarily somehow or other always exist in every piece of legislation that we write, that we are not leaning toward a Congress that is going to be nothing but independent millionaires; that we are going to lean toward the idea that only those that can really and truly find means by which they can subsidize outside of this framework that we create, have got a "horse on" as we say in my part of the country, and I would kind of dread that.

I do not mind being in the competitive market, I guess. We are all in the competitive market. So are you. And that is really what we are talking about. I am sorry that we have commercialized it so much, but again, it is a relatively new media and a relatively new country and we do have a lot of aches and pains.

One of your points which I think is very, very well put, "In any campaign there are saturation levels and a point where spending no longer pays off in votes per dollar," and I would suggest that if we really did an analysis of some of these campaigns that the Senator is talking about in which somebody had to spend \$2.5 million, I think you would find that he wasted a whale of a lot of money. Many of these campaigns where they spent that kind of money and then wind up carrying their State by a quarter of a million votes or 400,000 votes, they sat down after it was all over and said, "Why in the hell did I spend all that money in the last 10 days?" But again, you know, this is an investment in what he believes in, and I must say to you that I have very great fears about restricting the ability of individuals to be candidates for public office of the United States and I have a great fear that when we write this kind of legislation and impose ceilings that we, in effect, are really doing this.

So I appreciate your testimony very, very much, and it has been of real help to me, and I have a notion as to what I think the Federal courts would do in the Florida case, and I think you do, too.

Thank you, Dr. Alexander.

Dr. ALEXANDER. Thank you, Senator.

Senator COOK. All right. We will now adjourn these hearings and the record will stay open for 10 days for the purpose of anybody to add any additional comments or any remarks that they may wish to be placed in the record.

(Whereupon, at 11:35 a.m., the hearings were adjourned.)

## ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

(The following information was referred to on p. 219:)

THE LIBRARY OF CONGRESS,  
CONGRESSIONAL RESEARCH SERVICE,  
Washington, D.C., February 22, 1973.

To: Senate Communications Subcommittee  
(Attention Mr. Zapple).

From: American Law Division.

Subject: Campaign Financing: Court cases in which constitutional issues were raised with respect to provisions of the Federal Election Campaign Act of 1971.

In accordance with your request, we have prepared a memorandum discussing cases in which challenges on constitutional grounds to certain provisions of the Federal Election Campaign Act of 1971 have been made. So far as we were able to determine, the decisions in the cases discussed have not been reviewed by higher courts.

ELIZABETH YADLOSKY,  
Legislative Attorney.

### CONSTITUTIONAL ISSUES RAISED WITH RESPECT TO THE FEDERAL ELECTION CAMPAIGN ACT OF 1971, P.L. 92-225

There have been three reported decisions where the courts have had before them challenges to the constitutionality of certain provisions of the Federal Election Campaign Act of 1971, P.L. 92-225, *Ash v. Cort*, 350 F. Supp. 227 (E.D. Pa. 1972), *Pichler v. Jennings*, 347 F. Supp. 1061 (S.D.N.Y. 1972), and *U.S. v. National Committee for Impeachment*, —F. 2d — (2d Cir. 1972), 41 LW 2243. In none of these decisions did the courts rule directly on the constitutional issues raised. In two of the opinions, *Ash v. Cort*, *supra* and *U.S. v. National Committee for Impeachment*, *supra*, the courts held that because of the facts presented to the courts that compliance with the law was not necessary and therefore the courts did not have to reach the constitutional issues. In the third opinion, *Pichler v. Jennings*, *supra*, the court held that because the plaintiff's contentions as to the results of the Act were speculative, that the court was not presented with issues that were ripe for adjudication. In one of the cases, *Ash v. Cort*, *supra*, the provisions challenged were those restricting political activities of corporations and labor unions (18 U.S.C. § 610) and in the other two cases, *Pichler v. Jennings*, 347 F. Supp. 1061 (S.D.N.Y. 1972) and *U.S. v. National Committee for Impeachment*, —F. 2d — (2d Cir. 1972), 41 LW 2243 challenge on constitutional grounds was made to some of the disclosure requirements of Title III of the new Federal law. These three opinions are discussed in more detail below.

#### (1) CHALLENGE TO PROVISIONS WHICH RESTRICT POLITICAL ACTION BY CORPORATIONS 18 U.S.C. § 610

In *Ash v. Cort*, *supra*, the court considered an action brought by a stockholder against Bethlehem Steel Corporation seeking to enjoin that corporation from publishing an advertisement about campaign honesty in the three months prior to the November, 1972 elections.

The court refused to issue an injunction against the corporation because the court found that the money the corporation spent for the advertisement did not constitute an "expenditure" within the meaning of 18 U.S.C. § 610 as amended by the Federal Election Campaign Act of 1971. The court found that while Bethlehem Steel had expended its general funds to pay for the advertisement in question in order to communicate to the public its views as to honest

campaigns and elections, and its views as to a statement made by a candidate who was not named in the advertisement, there was nothing in the advertisement which either advocated or discouraged the election of any particular person or party and consequently the court held that the advertisement did not constitute an "expenditure" so as to bring the transaction within the provisions of § 610.

In discussing the construction which should be given to the term "expenditure" for purposes of § 610, the court referred to the fact that the term "expenditure" is defined in two different sections of the Federal law which regulates campaign financing. One definition of "expenditure" is set forth in the general definition section, 18 U.S.C. § 591, which defines many of the terms used in a number of sections in Title 18 regulating campaign financing, including § 610. § 591(f) provides:

"(f) 'expenditure' means—

"(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(2) a contract, promise, or agreement, express or implied whether or not legally enforceable, to make any expenditure; and

"(3) a transfer of funds between political committees;" [Italics supplied.]

In addition to the definition in § 591(f) (1) quoted above, the term "expenditure" is also defined within § 610 itself. § 610 was amended by the Federal Election Campaign Act of 1971 by the addition of the following paragraph to the text of the section:

"As used in this section, the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families; the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: *Provided*, That it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction."

The court concluded that under the facts of the *Ash* case that it was not necessary to reach the constitutional issue.

In analyzing the requirements of § 610, the court considered two major questions, one, whether the plaintiff had standing to institute a civil action to enforce compliance with the requirements of § 610, and the other, whether by publishing the advertisement the corporation violated § 610.

In connection with the first question, the court held that while in appropriate instances civil actions may be implied from criminal statutes, citing *Common Cause v. Democratic National Committee*, 338 F. Supp. 808 (D. D.C. 1971), that the case before it was not appropriate for this type of relief. The court came to this conclusion by reasoning that the primary purpose of § 610 is to protect the public by eliminating the effect of aggregated wealth in Federal elections (350 F. Supp. at page 231, citing *Pipefitters Local Union No. 562 v. United States*, 407 U.S. 895 (1972)).

The court held in the *Ash* case that the protection of dissenting or minority stockholders is only a secondary concern of § 610 and, since this is so, a substantial showing of congressional intent is required to provide an implied cause of action. The court held that since Congress expressly vested in the Department of Justice the authority to enforce the campaign financing law, the sanctions imposed by § 610 are purely penal in nature and a private cause of action could not be implied on the record of the case (350 F. Supp. at page 281).

In connection with the second question, namely whether the corporation violated § 610 by sponsoring the advertisement in question, the court referred to the definition in § 591 of an "expenditure" as "... anything of value ... for the purpose of influencing the nomination for election, or election, of any person to Federal office." The court said that the ostensible purpose of the advertisement was to mobilize and seek honest elections and only incidentally did it seek to refute a statement of an unnamed candidate for political office. This being the case, the court held that the corporation was not guilty of violating § 610. The court also said that there is nothing in the Federal Election Campaign Act which suggests a corporation or a labor union must sit idly by as accusations are being made against it or the industry or segment of the business community of which it is a part. The crux of the court's holding is set forth as follows:

"[6] The second issue arises, namely, whether the advertisement constitutes a violation of Section 610, which proscribes any expenditure or contribution to a candidate, campaign committee, political party or organization in connection with any Federal election. Section 591 defines expenditure as used in Section 610 as "... anything of value ... for the purpose of influencing the nomination for election, or election, of any person to Federal office." Here, the ostensible purpose—apparent on the face of the advertisement—is to mobilize and seek honest campaigns. Only incidentally does it seek to refute the statement of an unnamed candidate for political office. There is nothing in the Act which suggests a corporation or a labor union must sit idly by as accusations are being made against it or the industry or segment of the business community of which it is a part. The advertisement or article is not directed to the election of a specific person or persons or, indeed, of any persons to Federal office, as contemplated by 18 U.S.C. § 591(f). Neither is it directed to a specific candidate, campaign committee, political party or organization, as contemplated by 18 U.S.C. § 610.

"[7] We conclude that the purpose of the advertisement was not to influence the election of a specific candidate, but rather to seek an honest campaign and election and, incidentally, to respond to an accusation leveled against the business community. Thus, the payment for the advertisement did not constitute an 'expenditure' within the meaning of Section 591(f) and Section 610.

"A third issue arises in that defendants challenge the constitutionality of the Act. We need not reach the constitutional issue. Under the facts and circumstances of this case, we have construed the term 'expenditure' to exclude a situation where, as here, a corporation (or a labor union) expends its general funds to communicate to the public (a) its views as to honest campaigns and elections, an issue vital to its corporate interest and to the public; (b) its views as to a statement made by an unnamed candidate for election aimed at the community of which it is a part; and (c) without advocating the election of any particular person or party.

"In thus construing the term 'expenditure,' we need not decide whether the statute is overbroad in that it unduly infringes upon the First Amendment rights of either corporations or labor unions."

(350 F. Supp. at pp. 281-2)

## (2) CHALLENGE TO SPENDING LIMITATIONS AND DISCLOSURE PROVISIONS

In *Pickler v. Jennings*, 347 F. Supp. 1061 (S.D.N.Y. 1972), the court had before it a motion to dismiss an action contesting the constitutionality of certain provisions of Titles I and III of the Federal Election Campaign Act of 1971. The defendants in the action, the Clerk of the House of Representatives and the Comptroller General, moved to dismiss the action contending that the complaint failed to present a case or controversy and failed to state a claim upon which relief could be granted.

The plaintiffs in the action were state and district officers of the Conservative Party in New York State. They had instituted this action seeking declaratory and injunctive relief in respect to the Federal Election Campaign Act of 1971.

The plaintiffs contended that the provisions of Title I of the Act which require that before one may purchase communications media facilities for use in behalf of a candidate, he must have a written certification from the candidate that the candidate's spending limitation will not be exceeded thereby (P.L. 92-225, §104(b),(c)), constitute an unconstitutional restriction on their freedom of expression. Plaintiffs asserted that the certification requirements hand a "veto" power to major party candidates who, by refusing the certificate can prevent plaintiffs and clubs and organisations they represent from propagandizing their views if those views do not meet the candidate's approval. Thus, plaintiffs contend, third-party discussion of major party candidates is restricted to conform to the candidate's own thinking.

Plaintiffs also challenge some of the provisions of Title III, the disclosure title, of the new Federal campaign financing law on the ground that they unconstitutionally infringe on the constitutionally protected right of freedom of association, such as the provisions in Title III which require disclosure of the sources and disposition of contributions as well as of the identification of those handling and receiving the funds. The plaintiffs contend that reluctance on the part of some to be publicly identified with a particular candidate or campaign will serve as a deterrent to some from serving as officers of plaintiffs' clubs and as a deterrent to others from contributing money to plaintiffs for use by the Conservative Party. They also allege that the requirement to report all persons in the payroll of plaintiffs and their clubs for amounts in excess of \$100, although otherwise employed, may deter part-time party workers from taking temporary positions for fear of political reprisal in seeking other employment thereafter.

The court held that these contentions are speculative, plainly lacking in merit as a result, and fail to raise a substantial question of constitutionality of the Act (347 F. Supp. at page 1061).

The plaintiffs did not question the overall limitations imposed on broadcast and nonbroadcast media expenditures by a candidate, rather, plaintiffs' attack was limited to those provisions of Title I of the new Federal law which require that before anyone make an expenditure to purchase media space or time that the person first secure a written certification from the candidate that the candidate's statutory media spending limitation will not be exceeded.

The court referred to the regulations promulgated by the Comptroller General with respect to the certification of spending requirements in Title I. These regulations are published at Title II of the Code of Federal Regulations and provide, in part, as follows:

"A use of a communications media is deemed to be 'on behalf of the candidacy' of any candidate if the use (1) involves his participation by voice or image or advocates his candidacy; or (2) identifies the candidate, directly or by implication, or advocates his candidacy."

The regulations also contain provisions governing attribution of expenditures in opposition to a candidate, §§ 4.4, 4.5.

The defendants allege that the suit is premature and the issues are not ripe for adjudication because plaintiffs have not alleged that they have offered to buy a political advertisement in the media and that their offer has been refused by a person who would charge for the service or that they have been denied a certificate by a Federal candidate.

The court referred to the principle that the power of the courts arises only when the interests of litigants require the use of this judicial authority for their protection against actual interference. In this case, the court said, it is left to speculate on the type of political activity which the plaintiffs desire to engage in and there are other contingencies as for example, whether a candidate will refuse to grant plaintiffs a certificate which will enable them to purchase media time. The court concluded that since the threat to the plaintiffs is remote, the controversy is not of such immediacy as to confer jurisdiction on the court to consider the attack as to the constitutionality of the provisions of title I of P.L. 92-225.

The court also considered the constitutionality of Title III the disclosure provisions, of P.L. 92-225. Plaintiffs challenged the requirements that political committees and persons who receive contributions for political committees account for and keep records of contributions in excess of \$10, records which include the names and addresses of the contributors, and include in reports filed with supervisory officers reports containing the names and addresses of all persons who contribute more than \$100 in a year. The court held that the Supreme Court in such decisions as *Barroughs v. Cannon*, 290 U.S. 534 (1934) has recognized that

there is a substantial connection between disclosure requirements such as those in Title II and a compelling government interest. The court also held that since the plaintiffs cited no instances where acts of reprisal actually had occurred as a result of disclosure requirements similar to those in the Federal law being challenged, that the plaintiffs had offered no factual basis for weighing their claims of unconstitutional invasion of privacy against the compelling state interest underlying Title III, and that therefore the complaint was "wholly speculative and substantially defective" and the court dismissed the complaint (347 F. Supp. at page 1000).

(3) CHALLENGE TO DISCLOSURE PROVISIONS REQUIRES A "POLITICAL COMMITTEE" TO COMPLY WITH DISCLOSURE REQUIREMENTS

In *U.S. v. National Committee for Impeachment*, — F. 2d — (2d Cir. 1972), 41 LW 2243, the court held that under the facts of this case, a committee which sponsored a newspaper advertisement that sought support of a resolution of the House of Representatives to impeach the President and which also sought financial contributions to enable the committee to run future advertisements and to aid candidates who supported the impeachment resolution was not a "political committee" as that term is defined in Title III of the new Federal campaign financing law and consequently was not required to file financial statements or otherwise comply with the requirements of that campaign financing law.

The advertisement involved in the case included an "honor roll" listing Congressmen who either sponsored, or supported, a House resolution to impeach the President. The government contended that publication of the advertisement was intended to further the candidacies of the congressman listed in the honor roll.

The court held that the Federal campaign financing law requires a more definite connection between the candidates than was involved in this case in bringing the matter within the scope of the Federal law. The court found that in this case, the central theme of the advertisement related to the impeachment of the President and not to a specific election campaign or candidate. The court found that the basic thrust of the advertisement was toward achieving the necessary majority of House of Representative votes to pass the impeachment resolution and not towards the election of individual Congressmen. The court held that the publication of this advertisement standing alone did not make the committee responsible for the advertisement a "political committee" as that term is used in Title III of the law. The court said that any other conclusion would raise serious constitutional objections to the Act on which the court expressed no opinion. The court held that the words of the statute "made for the purpose of influencing" in § 301 are construed to mean an expenditure made with the authorization or consent, express or implied, or under their control, direct or indirect of a candidate or his agents. The court also construed the Act to apply only to committees soliciting contributions or making expenditures the major purpose of which is the nomination or election of Federal candidates. In this case, the court held, the tests are not met, because there was no connection between the committee sponsoring the advertisement and any candidate and because the major purpose of the advertisement was to promote impeachment of the President, and not to elect candidates to Congress.

The court found that it was the intention of Congress in enacting the new campaign financing act to deal with the funding of political campaigns and not with the funding of movements dealing with national policy. The court said that it recognized that this interpretation of the Act placed burdens on the officials who were charged with administering the campaign financing law because it requires those officials to glean the principal or major purpose of the organizations they seek to have comply with the Act. The court rejected the government's contention that the Act applies to the case before the court because the advertisement in question derogates the President's stand on a principal campaign issue. The court said that it could not accept this contention because if it did, then anyone commenting on any issue would be subject to proscription unless they complied with the disclosure regulations of the Act. The court said that there is no evidence in the legislative history of the new Federal law that indicates that Congress meant to go that far. The court said that if such a broad an interpretation of the statute were to be adopted, the result would be abhorrent because the result would be to regulate expression on fundamental issues of the day and the court would not assume that this is what Congress intended when it adopted the new law.

ELIZABETH YADLOVSKY,  
Legislative Attorney, American Law Division.

THE LIBRARY OF CONGRESS,  
CONGRESSIONAL RESEARCH SERVICE,  
Washington, D.C., March 9, 1973.

To: Senate Commerce Committee (Attention Mr. Hardy).

From: American Law Division.

Subject: Construction of Term "Expenditure" in Federal Campaign Financing Laws.

In response to your request, we have prepared and enclosed a memorandum which discusses the manner in which the courts have construed the term "expenditure" in Federal laws regulating campaign expenditures.

ELIZABETH YADLOSKY,  
Assistant Chief, American Law Division.

MEANING OF THE TERM "EXPENDITURE" IN THE FEDERAL CAMPAIGN FINANCING LAW

This memorandum collects the references in the reported decisions which indicate how the term "expenditure", when used in a Federal campaign law, is construed by the courts.

The Federal law regulating the financing of political campaigns for Federal office contains three definitions of "expenditure", two are in Title 18 United States Code, the Federal criminal code, and one is in Title III, the disclosure title of P.L. 92-225, the Federal Election Campaign Act of 1971. In addition, the new Federal law also contains provisions in Title I restricting expenditures for use of communications media by, or on behalf of, candidates for Federal office.

One of the two definitions of "expenditure" in Title 18, U.S.C., appears at Section 591, the general definition section for the Title 18 provisions which deal with Federal elections, and the other definition of "expenditure" in Title 18 appears in Section 610, the section which specifically limits the political activities of corporations and labor unions. As amended by the campaign financing law which became effective in 1972, the relevant portions of Sections 591 and 610 now read as follows:

§ 591. Definitions

"When used in sections 597, 599, 600, 602, 608, 610, and 611 of this title—

"(f) 'expenditure' means—

"(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or as a presidential and vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(2) a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure, and

"(3) a transfer of funds between political committees:

§ 610. Contributions or expenditures by national banks, corporations or labor organizations.

"It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section.

"Every corporation or labor organization which makes any contribution or expenditure in violation of this section shall be fined not more than \$5,000; and every officer or director of any corporation, or officer of any labor organization who consents to any contribution or expenditure by the corporation or labor organization, as the case may be, and any person who accepts or receives any contribution, in violation of this section, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

"For the purposes of this section 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

"As used in this section, the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families; the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: *Provided*, That it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction."

Since the 1972 amendments to Section 591(f) and Section 610 became effective, there have been two opinions where the meaning of the term "expenditure" was considered by the courts, one, *Ash v. Cori*, 330 F. Supp. 227 (D. Pa. 1973), the other, *U.S. v. National Committee for Impeachment*, 400 F. 2d 1135 (2d Cir. 1972).

*Ash v. Cori*, *supra*, involved an action brought by a stockholder against a corporation for a preliminary injunction restraining an advertisement expressing the corporation's management's views on campaign honesty. The District Court refused to issue the injunction holding that where a corporation had expended its general funds to pay for an advertisement in order to communicate to the public its views as to a statement made by an unnamed candidate for election aimed at the community of which it was a part, without advocating election of any particular person or party, payment for the advertisement did not constitute an "expenditure" within the statute proscribing any expenditure or contribution by a corporation or labor organization to a candidate, campaign committee, political party or organization in connection with any federal election.

The U.S. District Court in its opinion in *Ash v. Cori*, *supra*, held that the definition of "expenditure" in both Section 591(f) and Section 610 contemplated that something be spent for the specific purpose of influencing the election of person to a Federal office and that expenditures for other purposes are beyond the scope of the regulations of the campaign financing law (350 F. Supp. at pages 230-231).

In *United States v. National Committee for Impeachment*, *supra*, the main issue before the court was whether a group which published a political advertisement was a political "committee" as that term is defined in the Federal campaign financing law and thus would be required to comply with the requirements which that law imposes on political committees. In considering that issue, the court also considered the meaning of the clause which appears in the definition of "expenditure" in Section 591(f) of Title 18, U.S.C., namely, the clause "made for the purpose of influencing the nomination for election, or election, of any person to Federal office . . ." The court examined the legislative history of the section and did not find any guidance as to what the intention of Congress was with respect to how the language of this clause was to be interpreted. The court then held that the words of the Act themselves indicate that there must be some more



definite connection between the candidate and the committee than was involved in this case. (400 F. 2d at pages 1130-1140).

In discussing the factual situation and the conclusions it drew from them, the court said:

"Thus, the words of the Act seem to indicate that Congress' concern was primarily with groups organized or at least authorized by a particular candidate and whose principal focus is a specific campaign. The central theme of the advertisement at issue here relates to impeachment of the President, not specific election campaigns or candidates.

"The statement in the ad that the Committee will use its 'funds and publicity' in aid of any new candidate for election or re-election of an incumbent looks toward the future, but does not imply that the Congressmen named have agreed to such use. It is made, moreover, in the context that an impeachment resolution requires for passage under art. I, § 2, § 5 of the Constitution a vote of 18 of the 435 members of the House of Representatives. We reiterate: the basic thrust of the advertisement is toward impeachment and our policy condemnation, not toward the election of Congressmen.

"As much or more can be said of the language of the advertisement looking rather vaguely in the future" toward the creation of a new party to nominate and elect a President and Vice President and new or incumbent members of the House, contingent upon the National Committee's failure by a 'deadline to be set' to secure the majority of House members necessary to pass an impeachment resolution. Again, the central theme is impeachment, not the seeking of funds. Qualitatively, as well as quantitatively, the advertisement seeks support of an impeachment resolution, not the election of political candidates. As such, the purpose of the advertisement as we construe it was at most only incidentally to support candidates and engage in 'political activity' within the FECA.

"[2, 3] Given that conclusion, we think that the publication of this advertisement alone did not make the National Committee a 'political committee' within the FECA. Were we to think otherwise Title III of the Act would raise serious constitutional issues, on which we express no opinion.<sup>11</sup> See, e.g., *United States v. Sobel*, 380 U.S. 278, 282, 263, 200, 88 S.Ct. 419, 19 L.Ed.2d 508 (1967) (statutes impinging on first amendment rights must be narrowly drawn); *Mills v. Alabama*, 384 U.S. 214, 86 S.Ct. 1434, 16 L.Ed.2d 484 (1966) (first amendment invalidates state statute prohibiting election day editorials); <sup>12</sup> *NAACP v. Alabama*, 357 U.S. 49, 78 S.Ct. 1163, 2 L.Ed. 2d 1488 (1958) (court-ordered disclosure of names of members of controversial group held an unconstitutional interference with the right of free association); <sup>13</sup> *Opinions of the Justices*, 284 N.E.2d 919 (Sup.Jud. Ct.Mass., 1972) (proposed Massachusetts statute regulating political advertising declared unconstitutional vague).

"[4, 5] We thus construe the words 'made for the purpose of influencing' in section 801(e) and (f) "to mean an expenditure made with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate or his agents. For, in the words of Professor Emerson:

"[R]egulations confined to candidates and election campaigns are directed to a limited end and deal with a limited situation. Hence they can be formulated with some objectivity and avoid the dangers of abuse in administration.

<sup>11</sup> The introductory language to this effect—"If said majority is not obtained by a certain deadline to be set by the Executive Committee of the National Committee for impeachment . . ."—was omitted in quotations of the advertisement at page 5 of the Government's brief. When this language is added, the context is clear that here also the advertisement was referring to the indefinite future.

<sup>12</sup> A Washington, D.C., three-judge court is, at the writing of this opinion, considering the constitutionality of the Federal Election Campaign Act. *ACLU v. Jennings*, Civil No. 1967-72 (D.D.C. 1972).

<sup>13</sup> No distinction may be made for first amendment purposes between a political editorial and a paid political advertisement. See *New York Times Co. v. Sullivan*, 376 U.S. 254, 266, 14 S.Ct. 710, 11 L. Ed. 2d 686 (1964); *United States v. Painters Local Union No. 481*, 173 F. 2d 884 (2d Cir. 1949). Cf. *Business Executives' Move for Vietnam Peace v. FCC*, 46 U.S. App. D.C. 181, 450 F. 2d 642 (1971), cert. granted, 405 U.S. 953 92 S.Ct. 1174, 51 L. Ed. 2d 230 (1972).

<sup>14</sup> *Attorney Gen. v. Irish Northern Air Comm.*, 346 F. Supp. 1384 (S.D.N.Y., Aug. 7, 1972), aff'd without opinion, 465 F. 2d 1406 (2d Cir., Aug. 23, 1972), is not inconsistent with the line of cases following *NAACP v. Alabama* since it involves agents raising money for a civil war in a foreign country. Cf. 357 U.S. at 465, 78 S.Ct. at 1163; *Communist Party v. SACB*, 367 U.S. 1, 90-91, 81 S.Ct. 1337, 6 L. Ed. 2d 625 (1961).

<sup>15</sup> We are here concerned not only with contributions made to the National Committee; while there is not a shred of evidence that it made any expenditures on behalf of any candidate, the Government argues that paying for the original advertisement itself was an expenditure within § 801(f).

This cannot be done with regulations . . . addressed to the innumerable different kinds of people seeking to express themselves for different purposes throughout the whole system of free expression.

The System of Freedom of Expression 640 (Vintage ed. 1970). We also construe the Act to apply only to committees soliciting contributions or making expenditures the major purpose of which is the nomination or election of candidates. Here neither statutory test is met: any authorization or control by any candidate—indeed any connection whatsoever between the National Committee and any candidate—is missing and the major purpose of the advertisement was to promote the impeachment movement and to condemn governmental policy on the Vietnam war, not to elect candidates. In so saying, we need not determine whether, if one statutory test were met, the statute would be applicable.

"In thus narrowly construing the Act we follow *United States v. Rumely*, 345 U.S. 41, 78 S.Ct. 543, 97 L.Ed. 770 (1953), where the Court gave a limited construction to the phrase 'lobbying activities' 'in the candid service' in *Mr. Justice Frankfurter's* words 'of avoiding a serious constitutional doubt,' 345 U.S. at 47, 78 S.Ct. at 546. See also *Pipefitters Local Union No. 562 v. United States*, 407 U.S. 385, 92 S.Ct. 2247, 33 L.Ed.2d 11 (1972) (18 U.S.C. § 610 interpreted so as not to prohibit political expenditures from voluntarily-financed union political funds); *United States v. Painters Local Union No. 481*, 172 F.2d 854 (2d Cir. 1949) (statute interpreted so as not to prohibit union advertisements in a newspaper of general circulation). Accord, *United States v. CIO*, 285 U.S. 106, 121, 68 S.Ct. 1349, 92 L. Ed. 1849 (1948).

"[6, 7] Such a construction is, we think, also consistent with the principal purpose of the Act. See *United States v. Harris*, 347 U.S. 812, 822-823, 74 S.Ct. 806, 98 L.Ed. 989 (1954). That principal purpose, the Commerce Committee report indicates, related to 'the problem of political campaign reform and excessively high campaign costs.' Sen. Rep. No. 92-96, *supra*, 1972 U.S. Code Cong. & Adm. News, p. 58. Congressional concern was with political campaign financing, not with the funding of movements dealing with national policy. Admittedly, under this interpretation, enforcement of the Act may be made somewhat more burdensome, as the supervisory officials will be forced to glean the principal or major purpose of the organizations they seek to have comply with the Act. The broad administrative discretion which the Government's construction of the Act would allow, however, would itself be incompatible with the first amendment which requires that administrative standards regulating free expression be precisely drawn. See, e.g., *Kunz v. New York*, 340 U.S. 290, 71 S.Ct. 312, 95 L.Ed. 280 (1951); *Sala v. New York*, 334 U.S. 558, 68 S.Ct. 1148, 92 L.Ed. 1574 (1948); *Cantwell v. Connecticut*, 310 U.S. 296, 60 S.Ct. 900, 84 L.Ed. 1213 (1940).

"[8] We dispose more readily of the Government's suggestion that the Act applies to the National Committee because—quoting from the affidavit supporting its motion for a preliminary injunction—'with respect to the upcoming election for President and Vice-President of the United States, the National Committee derogates President Nixon's stand on a principal campaign issue—the Vietnam war.' On this basis every position on any issue, major or minor, taken by anyone would be a campaign issue and any comment upon it in, say, a newspaper editorial or an advertisement" would be subject to proscription unless the registration and disclosure regulations of the Act in question were complied with. Such a result would, we think, be abhorrent: the Government fails to point to a shred of evidence in the legislative history of the Act that would tend to indicate Congress meant to go so far. Any organization would be wary of expressing any viewpoint lest under the Act it be required to register, file reports, disclose its contributors, or the like. On the Government's thesis every little Audubon Society chapter would be a 'political committee,' for 'environment' is an issue in one campaign after another. On this basis, too, a Boy Scout troop advertising for membership to combat 'juvenile delinquency' or a Golden Age Club promoting 'senior citizens'

"At argument, Government counsel attempted valiantly to distinguish newspaper editorials from paid advertisements. But as Judge Augustus Hand pointed out in *United States v. Painters Local Union No. 481*, 172 F.2d 851, 856 (2d Cir. 1949), not everyone can afford to own a newspaper; indeed in this day and age fewer and fewer people can do so and hence must resort to purchasing space in someone else's newspaper or time on someone else's radio or TV station. Cf. *Business Executives' Move for Vietnam Peace v. FCC* 46 U.S. App. D.C. 181, 460, F.2d 642 (1971), cert. granted, 406 U.S. 963, 83 S.Ct. 1174, 31 L. Ed. 2d 230 (1972) (first amendment requires broadcasters to allow purchase of air time for political advertisements).

rights' would fall under the Act. The dampening effect on first amendment rights and the potential for arbitrary administrative action that would result from such a situation would be intolerable. The suggestion in the Government's supporting affidavit and on oral argument is inconsistent with what Judge Learned Hand so eloquently described as 'the spirit of liberty' and which he so beautifully defined as 'the spirit of Him who, near two thousand years ago, taught mankind that Reason it has never learned, but has never quite forgotten; that there may be a kingdom where the least shall be heard and considered side by side with the greatest.' L. Hand, *The Spirit of Liberty* 190 (I. Dillard ed. 1962). We reject the suggestion for we believe Congress had no intention of regulating the expression of opinion on fundamental issues of the day.

The granting of a preliminary injunction is therefore reversed, and the cause remanded for a hearing on the merits at which the Government may, of course, seek to adduce proof that the statutory standards here enunciated were met in this instance.

"Reversed and remanded."  
(409 F.2d at p. 1140 to 1142.)

Prior to the 1972 amendments to Sections 501 and 610 of Title 18 of the United States Code, Section 501 definition of the term "expenditure" read: "The term 'expenditure' includes a payment, distribution, loan, advance, deposit, or gift, of money, or anything of value, and includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable;"

Prior to the 1972 amendments to Section 610, the section read as quoted earlier in this memorandum except for the last paragraph which was added to the existing law in 1972.

The meaning of the term "expenditure" for purposes of the Federal laws regulating campaign financing before the 1972 amendments was discussed in several cases. The term "expenditure" was added in 1947 to the Federal law prohibiting corporations from making political contributions in campaigns for election to Federal offices, Section 313 of the Federal Corrupt Practices Act of 1925, Section 304 of the Labor Management Relations Act of 1947 (Taft-Hartley Act) added the term "expenditure" to Section 813. The amendments which were made to the law in 1947 are indicated in the italicized material which is quoted below:

"§ 304, Labor Management Relations Act, 1947, 61 Stat. 159, enacted June 23, 1947:

"Sec. 813. It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section. Every corporation or labor organization which makes any contribution or expenditure in violation of this section shall be fined not more than \$5,000; and every officer or director of any corporation, or officer of any labor organization, who consents to any contribution or expenditure by the corporation or labor organization, as the case may be, in violation of this section shall be fined not more than \$1,000 or imprisoned for not more than one year, or both. For the purposes of this section "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work."

"The additions of 1947 are italicized."  
(335 U.S. at pp. 107-108.)

The United States Supreme Court first considered the significance of the 1947 addition to the law of the term "expenditure" in designating the kinds of political activities which are prohibited to labor unions in its opinion, *U.S. v. C.I.O.*, 335 U.S. 106 (1948). In that case, a labor union was indicted for violating the provisions of the Federal law prohibiting labor unions from making contributions or expenditures in campaigns for Federal office. The indictment was based on

the fact that the union had expended money to publish articles urging the election of certain persons to the U.S. Congress. The Supreme Court held that the publications in question did not constitute a violation of Federal law because Congress had not intended in prohibiting labor unions from making "expenditures" in political campaigns for Federal office to reach publications of the type involved in the case. In discussing the meaning of the term "expenditure" in Section 313 of the Corrupt Practices Act, now Section 610 of Title 18, U.S.C., the Court said:

"Scope of Section 313.—The construction of this section as applied to this indictment turns on the range of the word 'expenditure,' added to the section by § 304 of the Labor Management Relations Act of 1947, as indicated in note 1, *supra*. 'Expenditure' as here used is not a word of art. It has no definitely defined meaning and the applicability of the word to prohibition of particular acts must be determined from the circumstances surrounding its employment. The reach of its meaning raised questions during congressional consideration of the bill when it contained the present text of the section. Did it cover comments upon political personages and events in a corporately owned newspaper? 98 Cong. Rec. 6438. Could unincorporated trade associations make expenditures? *Id.*, 6439. Could a union-owned radio station give time for a political speech? *Id.*, 6439. What of comments by a radio commentator? *Id.*, 6439. Is it an expenditure only when A is running against B or is free, favorable publicity for prospective candidates illegal? *Id.*, 6440. What of corporately owned religious papers supporting a candidate on moral grounds? The Anti-Saloon League? *Id.*, 6440.

"The purpose of Congress is a dominant factor in determining meaning." There is no better key to a difficult problem of statutory construction than the law from which the challenged statute emerged. Remedial laws are to be interpreted in the light of previous experience and prior enactments. Nor, where doubts exist, should we disregard informed congressional discussion."

"Section 304 of the Labor Management Relations Act of 1947 is not a section without history. Its earliest legislative antecedent was the Act of January 26, 1907, which provided:

"That it shall be unlawful for any national bank, or any corporation organized by authority of any laws of Congress, to make a money contribution in connection with any election to any political office. It shall also be unlawful for any corporation whatever to make a money contribution in connection with any election at which Presidential and Vice-Presidential electors or a Representative in Congress is to be voted for or any election by any State legislature of a United States Senator. . . ." 34 Stat. 864-65.

This legislation seems to have been motivated by two considerations. First, the necessity for destroying the influence over elections which corporations exercised through financial contributions." Second, the feeling that corporate officials had no moral right to use corporate funds for contribution to political parties without the consent of the stockholders."

"When Congress coupled the word 'expenditure' with the word 'contribution' it did so because the practical operation of § 313 in previous elections showed the need to strengthen the bars against the misuse of aggregated funds gathered into the control of a single organization from many individual sources. Apparently 'expenditure' was added to eradicate the doubt that had been raised as to the reach of 'contribution,' not to extend greatly the coverage of the section."

<sup>1</sup> *United States v. Kirby*, 7 Wall. 482, 486-87; *Hawaii v. Mankichi*, 190 U.S. 197, 211; *Fort Smith & Western R. Co. v. Mills*, 253 U.S. 204, 209; *United States v. Kats*, 271 U.S. 354, 359; *United States v. Guaranty Trust Co.*, 280 U.S. 476, 485; *Keifer & Keifer v. R.F.C.*, 306 U.S. 381, 391, n. 4; *United States v. American Trucking Assn.*, 310 U.S. 324, 344.

<sup>2</sup> *Burnet v. Hermal*, 287 U.S. 103, 108; *Boston Sand Co. v. United States*, 278 U.S. 41, 44; *Harrison v. Northern Trust Co.*, 317 U.S. 476, 479.

<sup>3</sup> See 40 Cong. Rec. 96; 41 Cong. Rec. 22.

<sup>4</sup> See Hearings before the House Committee on the Election of the President, 59th Cong., 1st Sess. 76 (1906); 40 Cong. Rec. 96.

<sup>5</sup> "In 1909 the Criminal Code of the United States, which codified, revised and amended the penal laws of the country was passed. 35 Stat. 1083. The Act of 1907 was reenacted as § 87, 35 Stat. 1103.

<sup>6</sup> 98 Cong. Rec. 6438, 6437, 6439.

One can find indications in the exchanges between participants in the debates that informed proponents and opponents thought that § 313 went so far as to forbid periodicals in the regular course of publication from taking part in pending elections where there was not segregated subscription, advertising or sales money adequate for its support. Of course, a periodical financed by a corporation or labor union for the purpose of advocating legislation advantageous to the sponsor or supporting candidates whose views are believed to coincide generally with those deemed advantageous to such organization is on a different level from newspapers devoted solely to the dissemination of news but the line separating the two classes is not clear. In the absence of definite statutory demarcation, the location of that line must await the full development of facts in individual cases. It is one thing to say that trade or labor union periodicals published regularly for members, stockholders or purchasers are allowable under § 313 and quite another to say that in connection with an election occasional pamphlets or dodgers or free copies widely scattered are forbidden. Senator Taft stated on the Senate floor that funds voluntarily contributed for election purposes might be used without violating the section and papers supported by subscriptions and sales might likewise be published.<sup>1</sup> Members of unions paying dues and stockholders of corporations know of the practice of their respective organizations in regularly publishing periodicals. It would require explicit words in an act to convince us that Congress intended to bar a trade journal, a house organ or a newspaper, published by a corporation, from expressing views on candidates or political proposals in the regular course of its publication. It is unduly stretching language to say that the members or stockholders are unwilling participants in such normal organizational activities, including the advocacy thereby of governmental policies affecting their interests, and the support thereby of candidates thought to be favorable to their interests.

"It is our conclusion that this indictment charges only that the CIO and its president published with union funds a regular periodical for the furtherance of its aims, that President Murray authorized the use of those funds for distribution of this issue in regular course to those accustomed to receive copies of the periodical and that the issue with the statement described at the beginning of this opinion violated § 313 of the Corrupt Practices Act.

"We are unwilling to say that Congress by its prohibition against corporations or labor organizations making an 'expenditure in connection with any election' of candidates for federal office intended to outlaw such a publication. We do not think § 313 reaches such a use of corporate or labor organization funds. We express no opinion as to the scope of this section where different circumstances exist and none upon the constitutionality of the section.

"Our conclusion leads us to affirm the order of dismissal upon the ground herein announced.

"It is so ordered."

(335 U.S. at pp. 112 to 124.)

Justice Rutledge, in his concurring opinion, said:

"The language of § 313, as amended, is sweepingly comprehensive. Insofar as presently pertinent it forbids labor unions as well as corporations '... to make a contribution or expenditure in connection with any election at which ... [the designated federal officers] \* are to be voted for,' including primaries, conventions of caucuses held to select such candidates. (Italic added.)

"The crucial words are 'expenditure' and 'in connection with.' Literally they cover any expenditure whatever relating at any rate to a pending election, and possibly to prospective elections or elections already held. The broad dictionary meaning of the word 'expenditure' takes added color from its context with 'contribution.' The legislative history is clear that it was added by the 1947 amendment expressly to cover situations not previously included within the

<sup>1</sup> See 52 Cong. Rec. 6487-40.

<sup>2</sup> See note 2. The section as presently effective is quoted in full at note 1 of the Court's opinion.

accepted legislative interpretation of 'contribution.' The coloration added is therefore not restrictive; it is expansive. See note 9. And in the absence of any indication of restriction, light on the scope of coverage can be found only in the legislative history.

"When one turns to that source, he finds a veritable fog of contradictions relating to specific possible applications," contradictions necessarily bred among both proponents and opponents of the amendment from the breadth and indefiniteness of the literal scope of the language used. But in one important respect the history again is clear, namely, that the sponsors and proponents had in mind three principal objectives.

"These were (1) To reduce what had come to be regarded in the light of recent experience as the undue and disproportionate influence of labor unions upon federal elections, (2) to preserve the purity of such elections and of official conduct ensuing from the choices made in them against the use of aggregated wealth by union as well as corporate entities, and (3) to protect union members holding political views contrary to those supported by the union from use of funds contributed by them to promote acceptance of those opposing views.<sup>9</sup> Shortly, these objects may be designated as the 'undue influence,' 'purity of elections,' and 'minority protection' objectives. They are obviously interrelated, but not identical. And the differences as well as their combination become important for deciding the scope of the section's coverage and its validity in specific application.

"With these objects in mind as throwing light on the section's coverage under the broad language employed, we turn to the legislative history on that subject. The Government centers the discussion, both on coverage and on constitutionality, around the 'minority protection' objective. And the legislative discussion, taking place almost exclusively in the Senate and dominated largely by the Labor Management Act's sponsor in that body, also took this purpose as the central theme.<sup>10</sup>

"'Contribution' had been construed by legislative committees investigating campaign expenditures prior to 1947 see notes 9 and 10 though not always unanimously, not to cover expenditures made by labor unions in publishing their political views during campaigns or at other times. See H.R. Rep. No. 2043 74th Cong. 2d Sess. 10-11. Sen. Rep. No. 101 70th Cong. 1st Sess. 67-69, 83-84. H.R. Rep. No. 2739 79th Cong. 2d Sess. 60-61, 40. Sen. Rep. No. 1 Part 2 80th Cong. 1st Sess. 37, 38, 39. It is not necessary to summarize the differing viewpoints expressed in the 1947 debates concerning the validity of this construction. Whether valid or not would make only the difference between extending the statute's scope by adding to its terms or by 'plugging a loophole' albeit a large one, created by misconstruction. In either event a large addition to the section's coverage was made. See e.g. 93 Cong. Rec. 6438-6440.

"The Federal Corrupt Practices Act of 1925 43 Stat. 1070 amended the preexisting legislation forbidding a corporate 'money contribution' by changing that term to 'contribution' and defining this to include a gift, subscription, loan, advance or deposit of money, or anything of value and includes a contract, promise or agreement, whether or not legally enforceable, to make a contribution. 'Since expenditure' was intended to broaden 'contribution' in the 1947 amendment of § 312 it would seem that its scope could hardly be less broad than was given by the 1925 Act's definition to 'contribution' although the Government does not appear to urge that 'expenditure' incorporates that definition.

"See 93 Cong. Rec. 6430-6441, 6444-6446, and excerpts quoted in the Court's opinion and the appendix to this one. Cf. also notes 11, 12, 13.

"These were the objects of the prohibition against 'contributions' by labor unions, which first appeared on a temporary basis in 1943 in the War Labor Disputes Act, which by its terms was to expire six months following the termination of hostilities. Act of June 30, 1943 c. 144 § 2. 57 Stat. 107. See Hearings before a Subcommittee of the Committee on Labor on H.R. 404 and H.R. 1434 74th Cong. 1st Sess. 2, 4, 117, 118, 128. Cf. 69 Cong. Rec. 6323, 6334, 6702. The Government's brief states that the legislative history of the 1943 Act shows that the principal basis of the extension to labor unions like that of the same and earlier acts applying to corporations 'was the securing of elections in accordance with the will of the people through removing disproportionate influences exerted by means of large aggregations of money.'

"Since the 1947 amendment to § 312 was designed to make permanent the prohibitions of the 1943 Act, H.R. Rep. No. 246, 80th Cong., 1st Sess. 46; H.R. Rep. No. 610, 80th Cong., 1st Sess. 47, 48 (conference report to accompany H.R. 3026) and to expand them by adding 'expenditures' the objects of the 1943 Act necessarily were carried forward into the 1947 amendment. 1947 H.R. Rep. No. 6428.

"Congressional committees investigating campaign expenditures in 1946 and 1947 had recommended that 'expenditures' be added to the prohibition of § 312. See H.R. Rep. No. 2739, 79th Cong., 2d Sess. 39-40, 40; Sen. Rep. No. 1, Part 2, 80th Cong., 1st Sess. 37, 38, 39. The so-called Taft Hartley Bill as introduced in the House contained the prohibition, H.R. 3026, 80th Cong., 1st Sess., § 304, while the Senate version did not, S. 1126 80th Cong. 1st Sess. There was apparently little discussion in either body on the matter until the conference report incorporating the provision was made. H.R. Rep. No. 610 80th Cong. 1st Sess. Then lengthy discussion ensued in the Senate, from which excerpts are quoted in the Court's opinion and in the appendix to this one. See 93 Cong. Rec. 6430-6441, 6443-6448, 6523-6524, 6530.

"The discussion ranged around a great variety of possible specific applications," with concentration upon both the scope and the validity of the provision. The Senate sponsor responded to a flood of inquiries with candor and so far as possible with precision and certainty concerning particular situations under his view of the section's criterion," although in numerous instances he was equally candid in stating doubt or disability to give positive opinions, at times in the absence of further facts."

"What is most significant for the question of coverage, however, and for the Court's construction in this case, is the fact that in making his responses to the numerous and varied inquiries he tested coverage invariably or nearly so by applying the very criterion the Court now discards, namely, the source of the funds received and expended in making the political publication.

"That is, in his view that the primary purpose of the amendment was 'minority protection,' the line drawn by the section was between expenditure of funds received by the union expressly for the purpose of the publication and earmarked for that purpose and, on the other hand, expending funds not so limited by the person or source supplying them." There was strong opposition to the provision and spirited exchange between proponents and critics of the measure concerning its wisdom and its constitutionality. But there was no disagreement among them that the sponsor's test was the intended criterion. Indeed the legislative discussion was stated explicitly to be for the purpose of making plain beyond any question that this was so." Although there were many differences over whether specified

"Some of the more important instances included whether the section applied to forbid political comment or information 'in connection with' elections by corporately owned newspapers and periodicals, in regular course of distribution 93 Cong Rec 6436, or in special editions *ibid.*, by house organs *id.* 6440, or like publications put out by corporations engaging primarily in other business than publishing, by religious *ibid.*, and charitable corporations by organizations like the Anti-Slavery League, *ibid.*, by radio commentators sponsored by commercial corporations, *id.* 6430 6447, by trade associations, such as the National Association of Manufacturers, which receive funds from constituent corporations *id.* 6432.

"These inquiries generally proceeded with analogies once relating to comparable activities of unions and comparable responses, touching for example P. A. C. activities; labor publications, regular or special, sponsored broadcasts, etc. Illustrative responses are set forth in note 12.

"*E.g.*, the regular corporately owned press was considered not covered as to its ordinary circulation because 'that is the operation of the newspaper itself,' 93 Cong. Rec. 6437. The same exemption from coverage, however, was thought not to extend to regularly published union or labor papers, since members' dues could not be so used without specific earmarking or designation by each for such use even though from previous practice they might know such use would be made *id.* 6440. On the other hand neither the regular press, corporately owned, nor union papers could publish special editions or distribute them with or without charge. Nor could house organs, union or corporate comment politically or religious organizations, if incorporated, neither could associations like the National Association of Manufacturers, which receive funds from corporations and by such expenditures would be making contributions indirectly. Problems involving organizations like the Anti-Slavery League and sponsored radio broadcasts whether by unions or corporations, as well as guest appearances of candidates and others supporting them on sponsored radio programs raised matters of greater difficulty. See the various pertinent citations in note 11. Cf. Notes 13 and 14.

"The problems raised in connection with radio discussions presented particularly dubious situations, frequently admitted to call for further facts, to present questions of fact, and to require line lines of distinction. See, *e.g.*, 93 Cong. Rec. 6439 6440.

"Difficulty arose and doubt was expressed also over what would constitute political comment, *e.g.*, publishing an incumbent candidate's voting record, *id.* 6432 6444, 6447, an instance in which the Senate sponsor at first disagreed with Senator Hall but later apparently though somewhat equivocally agreed with him that publication of the record without comment further than merely a bare statement of actual facts and simply direct quotations of what the man had said in the course of certain speeches on certain subjects would not be forbidden *id.* 6447. Corporate broadcasts not for or against a candidate, but for a party or relating to issues in the election said to be 'again a question of fact' and to depend on 'how close it is to the election' *id.* 6448. These instances are illustrative only not comprehensive. Cf. note 29.

"This note turned the answers to the inquiries and situations mentioned in notes 11, 12 and 13 as indeed to all others. If the funds used for the publication came to the corporate or union treasury without securing the contributor's express consent for that use the organization could not so apply them. If so contributed they could be thus employed. Except in the case of the regular corporate press which presumably was not covered as to ordinary circulation, cf. note 12 *supra* expenditure of any corporate or union funds not derived from operation of the publication *e.g.* from advertising revenues or returns from per copy sales, or funds received from individuals without individual and explicit authorization for the purpose of the publication was forbidden.

"See the appendix to this opinion, *post*, p. 150.

types of activity would fall under the criterion's ban and doubts concerning others, the purpose succeeded. There was no divergence from the view that political comment by a union paper or other instrumentality using nonsegregated funds was within the section's coverage. When this was the source of the expenditure it violated the intended prohibition of the section whether or not the publication was in regular course and whether or not it went to others than members and persons accustomed to receive it.

"If therefore the sponsor's steadfast view can have weight to determine the coverage of a statute indefinite in its terms, *Wright v. Vinton Branch*, 300 U.S. 440; *United States v. Dickerson*, 310 U.S. 554; *United States v. American Trucking Assn.*, 310 U.S. 534; *United States v. Wrightwood Dairy Co.*, 315 U.S. 110, this case is brought squarely within the prohibition of § 313. This is conclusively established by the excerpts from the legislative discussion quoted in the Court's opinion. Others to the same effect are added to this one as an appendix.

"Moreover in this message vetoing the Labor Management Relations Act of 1947 the President stated that § 313 'would prevent the ordinary union newspaper from commenting favorably or unfavorably upon candidates or issues in national elections.' H.R. Doc. No. 334, 80th Cong., 1st Sess. 9. In the debate preliminary to the overriding of the veto, none of the legislators in charge of the measure gave any indication that they differed with the President's interpretation. Nor could they have differed, for the statement in the veto message gave effect to their clearly expressed views as to section's coverage in the specific instance stated.

"Thus, in the face of the legislative judgment, reiterated after veto, and of the Chief Executive's in making his veto, this Court sets aside the one clearly intended feature of the statute apart from its general objectives. I doubt that upon any matter of construction the Court has heretofore so far presumed to override the plainly and incontrovertibly stated judgment of all participants in the legislative process with its own tortuously fashioned view. This is not construction under the doctrine of strict necessity. It is invasion of the legislative process by emasculation of the statute. The only justification for this is to avoid deciding the question of validity."

(335 U.S. at pp. 132-139.)

The next decision considering the construction of the term "expenditure" was a lower court decision where payments by a labor union to its employees who it had assigned to work in political matters were held not to be "expenditures" prohibited by Section 610, *U.S. v. Construction & General Laborers Union No. 264*, 101 F. Supp. 880 (D. Mo. 1951). In this case, a labor union's payments to three employees, two of whom were regularly on the payroll of the union and who devoted a considerable portion of their time to political activities, some of which activities such as registration of voters and taking voters to the polls were of general benefit to those who were candidates and some of which were devoted to the exclusive interest of one candidate for Congress were held not to be "expenditures" for purposes of Section 610. The court held:

"[6] If a strict construction is to be given to the statute, then it is not the degree of the activity, but the type of activity which would determine whether or not an expenditure had been made.

"The debates in the Congress at the time the Labor-Management Relations Act was under discussion cover a very wide field, and it is impossible to reconcile just exactly what the Congress intended by its definition of 'expenditure.' Reiterating, it is difficult for me to believe that the Congress, with its vast knowledge of the practical application of its acts, intended such a restriction as is sought to be placed upon labor unions as here.

"If the Court were to determine that the Congress did intend such meaning of the word, then it would be necessary to pass upon the constitutionality of the statute, but as I have heretofore held with respect to Counts V and X, the evidence is entirely insufficient to sustain the conviction, and in regard to the other counts, I believe that the Congress did not intend its definition of 'contributions' to apply under the circumstances as shown by the evidence, and thus it is not necessary to pass upon the constitutionality of the statute. If that was the intent of the Congress, it should have been more clearly spelled out."

(101 F. Supp. at p. 876.)

The next case where the Supreme Court considered the meaning of "expenditure" for campaign financing law purposes arose in connection with a labor organization's use of union dues to sponsor a commercial television broadcast which was designed to influence the election of candidates to Congress, *U.S.*



*Auto Workers (UAW-CIO)*, 352 U.S. 507 (1956). There, the Court in discussing the background of the 1947 amendment which added the term "expenditure" to the law referred to the war-time law prohibiting labor unions from making political "contributions". The labor unions construed the prohibitions against their making political "contributions" very narrowly and were making large political "expenditures" which they alleged were not illegal as the law was worded at that time.

The court said:

"Despite § 313's wartime application to labor organizations Congress was advised of enormous financial outlays said to have been made by some unions in connection with the national elections of 1944. The Senate's Special Committee on Campaign Expenditures investigated, *inter alia*, the role of the Political Action Committee of the Congress of Industrial Organizations. The Committee found 'no clear-cut violation of the Corrupt Practices Act on the part of the Political Action Committee' on the ground that it had made direct contributions only to candidates and political committees involved in state and local elections and federal primaries, to which the Act did not apply, and had limited its participation in federal elections to political 'expenditures,' as distinguished from 'contributions' to candidates or committees. S. Rep. No. 101, 79th Cong., 1st Sess. 28. The Committee also investigated, on complaint of Senator Taft, the Ohio C. I. O. Council's distribution to the public at large of 200,000 copies of a pamphlet opposing the re-election of Senator Taft and supporting his rival in response to the C. I. O.'s assertion that this was not a proscribed 'contribution' but merely an 'expenditure of its own funds to state its position to the world, exercising its right of free speech . . . ' the Committee requested the Department of Justice to bring a test case on these facts. *Id.*, at 59. It also recommended extension of § 313 to cover primary campaigns and nominating conventions. *Id.*, at 81. A minority of the Committee, Senators Ball and Ferguson, advocated further amendment of § 313 to proscribe 'expenditures' as well as 'contributions' in order to avoid the possibility of emasculation of the statutory policy through a narrow judicial construction of 'contributions.' *Id.*, at 83.

"The 1945 Report of the House Special Committee to Investigate Campaign Expenditures expressed concern over the vast amounts that some labor organizations were devoting to politics:

"The scale of operations of some of these organizations is impressive. Without exception, they operate on a Nation-wide basis; and many of them have affiliated local organizations. One was found to have an annual budget for "educational" work approximating \$1,500,000, and among other things regularly supplies over 500 radio stations with "briefs for broadcasters." Another, with an annual budget of over \$300,000 for political "education," has distributed some 30,000,000 pieces of literature, including a quarter million copies of one article. Another, representing an organized labor membership of 5,000,000, has raised \$700,000 for its national organizations in union contributions for political "education" in a few months, and a great deal more has been raised for the same purpose and expended by its local organizations." H.R. Rep. No. 2093, 78th Cong., 2d Sess. 3.

"Like the Senate Committee, it advocated extension of § 313 to primaries and nominating conventions. *Id.*, at 9, and noted the existence of a controversy over the ——— of "contribution" *Id.*, at 11. The following year the House Committee made a further study of the activities of organizations attempting to influence the outcome of federal elections. It found that the Brotherhood of Railway Trainmen and other groups employed professional political organizers, sponsored partisan radio programs and distributed campaign literature. H.R. Rep. No. 2759, 79th Cong., 2d Sess. 36-37. It concluded that:

"The intent and purpose of the provision of the act prohibiting any corporation or labor organization making any contribution in connection with any election would be wholly defeated if it were assumed that the term "making any contributions" related only to the donating of money directly to a candidate, and excluded the vast expenditures of money in the activities herein shown to be engaged in extensively. Of what avail would a law be to prohibit the contributing direct to a candidate and yet permit the expenditure of large sums in his behalf?

"The committee is firmly convinced, after a thorough study of the provisions of the act, the legislative history of the same, and the debates on the said provisions when it was pending before the House, that the act was intended to prohibit such expenditures." *Id.*, at 40.

"Accordingly, to prevent further evasion of the statutory policy, the Committee attached to its recommendation that the prohibition of contributions by labor organizations be made permanent the additional proposal that the statute 'be clarified so as to specifically provide that expenditures of money for salaries to organizers, purchase of radio time, and other expenditures by the prohibited organizations in connection with elections, constitute violations of the provisions of said section, whether or not said expenditures are with or without the knowledge or consent of the candidates.' *Id.*, at 46. (Italics omitted.)

"Early in 1947 the Special Committee to Investigate Senatorial Campaign Expenditures in the 1946 elections, the Ellender Committee, urged similar action to 'plug the existing loophole,' S. Rep. No. 1, Part 2, 80th Cong., 1st Sess. 38-39, and Senator Ellender introduced a bill to that effect.

"Shortly thereafter, Congress again acted to protect the political process from what it deemed to be the corroding effect of money employed in elections by aggregated power. Section 304 of the labor bill introduced into the House by Representative Hartley in 1947, like the Ellender bill, embodied the changes recommended in the reports of the Senate and House Committees on Campaign Expenditures. It sought to amend § 313 of the Corrupt Practices Act to prescribe any "expenditure" as well as "any contribution," to make permanent § 313's application to labor organizations and to extend its coverage to federal primaries and nominating conventions. The Report of the House Committee on Education and Labor, which considered and approved the Hartley bill, merely summarized § 304, H.R. Rep. No. 245, 80th Cong., 1st Sess. 46, and this section gave rise to little debate in the House. See 90 Cong. Rec. 3428, 3522. Because no similar measure was in the labor bill introduced by Senator Taft, the Senate as a whole did not consider the provisions of § 304 until they had been adopted by the Conference Committee. In explaining § 304 to his colleagues, Senator Taft, who was one of the conferees, said:

"I may say that the amendment is in exactly the same words which were recommended by the Ellender committee, which investigated expenditures by Senators in the last election. . . . In this instance the words of the Smith-Connally Act have been somewhat changed in effect so as to plug up a loophole which obviously developed, and which, if the courts had permitted advantage to be taken of it, as a matter of fact, would absolutely have destroyed the prohibition against political advertising by corporations. If "contributions" does not mean "expenditure," then a candidate for office could have his corporation friends publish an advertisement for him in the newspapers every day for a month before election. I do not think the law contemplated such a thing, but it was claimed that it did, at least when it applied to labor organizations. So, all we are doing here is plugging up the hole which developed, following the recommendation by our own Elections Committee, in the Ellender bill,' 98 Cong. Rec. 6439.

"After considerable debate, the conference version was approved by the Senate, and the bill subsequently became law despite the President's veto. It is this section of the statute that the District Court held did not reach the activities alleged in the indictment.

"On review under the Criminal Appeals Act of a district court judgment dismissing an indictment on the basis of statutory interpretation, this Court must take the indictment as it was construed by the district judge, *United States v. Borden Co.*, 306 U.S. 188. The court below summarized the allegations of the indictment at the outset of its opinion:

"Here the specific charge is that the 'expenditure' violation came in connection with the selection of candidates for a senator and representatives to the United States Congress during the 1954 primary and general election. It alleged that defendant paid a specific amount from its general treasury fund to Luckoff and Wayburn Productions, Detroit, Michigan, to defray the costs of certain television broadcasts sponsored by the Union from commercial television station WJBK.

"It is charged that the broadcasts urged and endorsed selection of certain persons to be candidates for representatives and senator to the Congress of the United States and included expressions of political advocacy intended by defendant to influence the electorate and to affect the results of the election.

"It is further charged that the fund used came from the Union's dues, was not obtained by voluntary political contributions or subscriptions from members of the Union, and was not paid for by advertising or sales." 188 F. Supp., at 254.

"Thus, for our purposes, the indictment charged appellee with having used union dues to sponsor commercial television broadcasts designed to influence the electorate to select certain candidates for Congress in connection with the 1954 elections.

"To deny that such activity, either on the part of a corporation or a labor organization, constituted an 'expenditure in connection with any [federal] election' is to deny the long series of congressional efforts calculated to avoid the deleterious influences on federal elections resulting from the use of money by those who exercise control over large aggregations of capital. More particularly, this Court would have to ignore the history of the statute from the time it was first made applicable to labor organizations. As indicated by the reports of the Congressional Committees that investigated campaign expenditures, it was to embrace precisely the kind of indirect contribution alleged in the indictment that Congress amended § 313 to proscribe 'expenditures.' It is open to the Government to prove under this indictment activity by appellee that, except for an irrelevant difference in the medium of communication employed, is virtually indistinguishable from the Brotherhood of Railway Trainmen's purchase of radio time to sponsor candidates or the Ohio C. I. O.'s general distribution of pamphlets to oppose Senator Taft. Because such conduct was claimed to be merely 'an expenditure [by the union] of its own funds to state its position to the world,' the Senate and House Committees recommended and Congress enacted, as we have seen, the prohibition of 'expenditures' as well as 'contributions' to 'plug the existing loophole.'

"Although not entitled to the same weight as these carefully considered committee reports, the Senate debate preceding the passage of the Taft-Hartley Act confirms what these reports demonstrate. A colloquy between Senator Taft and Senator Pepper dealt with the problem confronting us:

"Mr. PEPPER. Does what the Senator has said in the past also apply to a radio speech? If a national labor union, for example, should believe that it was in the public interest to elect the Democratic Party instead of the Republican Party, or vice versa, would it be forbidden by this proposed act to pay for any radio time, for anybody to make a speech that would express to the people the point of view of that organization?

"Mr. TAFT. If it contributed its own funds to get somebody to make the speech, I would say they would violate the law.

"Mr. PEPPER. If they paid for the radio time?

"Mr. TAFT. If they are simply giving the time, I would say not; I would say that is in the course of their regular business.

"Mr. PEPPER. What I mean is this: I was not assuming that the radio station was owned by the labor organization. Suppose that in the 1948 campaign, Mr. William Green, as president of the American Federation of Labor, should believe it to be in the interest of his membership to go on the radio and support one party or the other in the national election, and should use American Federation of Labor funds to pay for the radio time. Would that be an expenditure which is forbidden to a labor organization under the statute?

"Mr. TAFT. Yes. '93 Cong. Rec. 6439.

"The discussion that followed, while suggesting that difficult questions might arise as to whether or not a particular broadcast fell within the statute, buttresses the conclusion that § 304 was understood to proscribe the expenditure of union dues to pay for commercial broadcasts that are designed to urge the public to elect a certain candidate or party.<sup>1</sup>

"Mr. BARKLEY. Suppose a certain corporation, for instance the corporation that makes Bayer aspirin, or Jergens lotion, or any other well-advertised product, employs a commentator to talk about various things, winding up with an advertisement of the product, and suppose that the radio commentator from day to day takes advantage of his employment or his sponsorship to make comments which are calculated to influence the opinions of men or women as to political candidates. Would the corporation sponsoring the particular commentator be violating the law?

"Mr. TAFT. I should have to know the exact facts. If, for instance, apart from commentators and the radio and taking the case of a paid advertisement suppose a corporation advertises its products and that every day for 2 weeks before the election it advertises a candidate. I should say that would be a violation of the law. I would say the same thing probably would be true of a radio broadcast of that kind under certain circumstances, but I think I should like to know the exact facts before expressing an opinion.

"Mr. BARKLEY. In the case of a commentator who is paid to advertise a certain product, and who in the course of his 15 minutes on the radio may also seek to influence votes, the sponsor may say either before or after the broadcast, that he is not responsible for what the commentator says; yet he is paying the commentator for his broadcast. Would that still be a violation of law, although the sponsor might excuse

"*United States v. C. I. O.*, 335 U.S. 106, presented a different situation. The decision in that case rested on the Court's reading of an indictment that charged defendants with having distributed only to union members or purchasers an issue, Vol. 10, No. 28, of "The CIO News," a weekly newspaper owned and published by the C. I. O. That issue contained a statement by the C. I. O. president urging all members of the C. I. O. to vote for a certain candidate. Thus, unlike the union-sponsored political broadcast alleged in this case, the communication for which the defendants were indicted in *C. I. O.* was neither directed nor delivered to the public at large. The organization merely distributed its house organ to its own people. The evil at which Congress has struck in § 313 is the use of corporation or union funds to influence the public at large to vote for a particular candidate or a particular party.

"Our holding that the District Court committed error when it dismissed the indictment for having failed to state an offense under the statute implies no disrespect for the cardinal rule of construction, that where the language of an act will bear two interpretations, equally obvious, that one which is clearly in accordance with the provisions of the constitution is to be preferred. *Knights Templars' Indemnity Co. v. Jarman*, 187 U.S. 197, 203. The case before us does not call for its application. Here only one interpretation may be fairly derived from the relevant materials. The rule of construction to be invoked when constitutional problems lurk in an ambiguous statute does not permit disregard of what Congress commands.

Appellee urges that if, as we hold, 18 U. S. C. § 610 embraces the activity alleged in the indictment, it offends several rights guaranteed by the Constitution."

(352 U.S. at pp. 579-580.)

himself or attempt to excuse himself by saying he was not responsible for the opinions expressed by the commentator?

"Mr. TART: I think there are all degrees. It would be for a court to decide. I think as a matter of fact, if that had happened under the old law, there would have been the same question.

"I want to make the point that we are not raising any new questions here. Those same questions could have been raised with respect to corporations during the past 25 years. It is a question of fact: Was the corporation using its money to influence a political election?

"Mr. MAONUMON: Let us consider the teamsters. Suppose they have a weekly radio program, as, indeed, they have had for a long time back. Or let us say the AFL has such a radio program. Let us assume I am running for office and they ask me to be a guest on their program. Suppose I talk on the subject of labor and do not advocate my own candidacy. Nevertheless I am on that program. My name is being advertised and I am being heard by many thousands of people. Would that be an unlawful contribution to my candidacy?

"Mr. TART: If a labor organization is using the funds provided by its members through payment of union dues to put speakers on the radio for Mr. X against Mr. Y, that should be a violation of the law.

"Mr. MAONUMON: They are not paying me anything. They have asked me to be a guest.

"Mr. TART: I understand, but they are paying for the time on the air. Of course, in each case there is a question of fact to be decided. I cannot answer various hypotheses without knowing all the circumstances. But in each case the question is whether or not a union or a corporation is making a contribution or expenditure of funds to elect A as against B. Labor unions are supposed to keep out of politics in the same way that corporations are supposed to keep out of politics. 93 Cong. Rec. 6439-6440.

"Mr. TAYLOR: Take the matter of a radio program sponsored by either a union or a corporation. I think the AFL or the CIO, one or the other, has a news commentator who comments on the news. Could he comment on political candidates favorably or unfavorably?

"Mr. TART: If the General Motors Corp. had a man speaking on the radio every week to advocate the election of a Republican or a Democratic Presidential candidate, the corporation ought to be punished, and it would be punished under the law. Labor organizations should be subject to the same rule.

"Mr. TAYLOR: That is altogether different. It is a more subtle thing. When a commentator is broadcasting the news every day he can do a lot more good or harm than he could openly.

"Mr. TART: The Senator is right. It is a question of fact which would have to be raised in every case. Is it a contribution to a candidate or is it not? Possibly a known fact in a boom sometimes. That argument might well be made by a person who was taking part in an election." 93 Cong. Rec. 6447.

"... If such an expenditure is prohibited by 18 U.S.C. 610, the statute violates the provisions of the Constitution of the United States in that the statute (i) abridges freedom of speech and of the press and the right peaceably to assemble and to petition; (ii) abridges the right to choose senators and representatives guaranteed by Article I, and the Seventeenth Amendment; (iii) creates an arbitrary and unlawful classification and discriminates against labor.

The next opinion which construed the meaning of "expenditure" involved political activity of a corporation rather than of a labor union, *United States v. Lewis Food Company*, 388 F.2d 710 (9th Cir. 1968). In that case, a corporation had purchased space in newspapers for advertisements which discussed candidates' voting records in Congress. The question was whether the payment for these advertisements constituted an "expenditure" which was prohibited by Section 610. The court held that Section 610 only prohibits an "expenditure" which is made for an activity which constitutes active electioneering. The court held, on this point:

"On this appeal the United States does not appear to contest the district court's determination that an expenditure does not come within the purview of the statute unless it is for an activity which constitutes active electioneering. In fact, the Government calls attention to the statement in *United States v. International Union United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CIO)* (herein cited as *Auto Workers*), 332 U.S. 567, 589, 77 S.Ct. 529, 540, 1 L.Ed.2d 563, that:

"[t]he evil at which Congress has struck in § 313 [now 18 U.S.C. § 610] is the use of corporation or union funds to influence the public at large to vote for a particular candidate or a particular party."

"The Government argues, however, that the allegations of the indictment and the content of the 'Important Notice to Voters,' establish that the advertisement was designed to influence the public at large to vote for a particular candidate, or at least raises a factual issue to be resolved by a jury."

We will assume, without deciding, that expending corporate funds for an advertisement which only publicizes the voting record of candidates for federal office is not active electioneering and therefore is not prohibited by section 610.

"[1] We agree with the Government, however, that a jury question was presented as to whether the advertisement in this case went beyond these bounds in that it was designed to influence the public at large to vote for or against particular candidates. A jury could find that the 'Notice to Voters' was not intended to give an objective report on the voting record of public office holders. It sets forth only Lewis' appraisal of their undisclosed voting record, expressed in the form of percentage ratings. The 'Notice to Voters' also makes it plain that in Lewis' opinion, those office holders who are given low ratings on their votes 'in favor of constitutional principles' should not be re-elected."

"We therefore hold that the indictment should not have been dismissed on the ground that, as a matter of law, the expenditures in question were not for an activity which constituted active electioneering."

(388 F.2d. at p. 712).

The Supreme Court again considered the meaning of the term "expenditure" as used in Section 610 in *Pipefitters v. United States*, 407 U.S. 385 (1972). The Court's comments on the legislative history of the 1947 addition of the term to the law and the possible effect of the 1972 amendment to Section 610 are as follows:

"The special committees investigating the 1944 and 1946 campaigns devoted particular attention to the activities of the Political Action Committee (PAC) of the Congress of Industrial Organizations (CIO) because they had stirred considerable public controversy. See H.R. Rep. No. 2093, 78th Cong., 2d Sess., 2-6 (1945); S. Rep. No. 101, 70th Cong., 1st Sess., 20-24, 57-60 (1945); H.R. Rep.

"In *Auto Workers*, the Supreme Court found the indictment to be sufficient but remanded the case for trial without disposing of the constitutional issue. One reason the Supreme Court gave for following this course was that "only an adjudication on the merits can provide the concrete factual setting that sharpens the deliberative process especially demanded for constitutional decision." (353 U.S. at 591, 77 S. Ct. at 541)

"The Supreme Court in *Auto Workers* gave several examples of the kind of factual questions which might be resolved at the trial including the following: "Did it [the commercial television broadcast there in question] constitute active electioneering or simply state the record of particular candidates on economic issues?" (352 U.S. at 592, 77 S. Ct. at 542) The district court in our case believed that the Supreme Court was inferring that an expenditure by a labor union or corporation does not come within the purview of the statute if it is not for an activity which constitutes active electioneering but is merely for a publication which states the record of particular candidates on economic issues. The district court also thought that a record of candidates "in favor of constitutional principles," the phrase used in the "Important Notice to Voters," was in the same category as the record of candidates "on economic issues," the phrase used in the *Auto Workers* case.

"Since both appellant and appellee have assumed that the bill of particulars may be considered in determining whether the indictment states an offense, we will do likewise. See *United States v. Boston & Maine Railroad et al.*, 360 U.S. 157, 159, note 1, 85 S. Ct. 868, 13 L. Ed. 2d 728.

No. 2739, 70th Cong., 2d Sess., 30-31 (1940). See also S. Rep. No. 1, pt. 2, 80th Cong., 1st Sess., 34 (1947). The committee findings were that PAC had been established by the executive board of the CIO in July 1943; that it consisted of a national office and 14 regional offices advising and coordinating numerous state and local political action committees; that its connection to the CIO was close at every level of organization; that its program, adopted by the CIO convention in November 1943, had included the re-election of President Roosevelt and the election of a 'progressive' Congress; that it had initially been financed by sizable pledges from the treasuries of CIO international unions and that some of these funds had been expended in federal primaries; but that, following the nomination in July 1944 of President Roosevelt for re-election, it was generally financed by \$1 contributions knowingly and freely made by individual CIO members; and that these monies were used for political educational activities, including get-out-the-vote drives, but were not directly contributed to any candidate or political committee. Thus, PAC had limited its direct contributions in federal campaigns to primaries, to which the Act at the time expressly did not apply, and restricted its activities in the elections themselves to so-called 'expenditures' rather than 'contributions.' The Senate Special Committee on Campaign Expenditures concluded in 1945 that, in these circumstances, there was 'no clear-cut violation' by PAC of § 313 of the Corrupt Practices Act. S. Rep. No. 101, *supra*, at 23. Although there was agreement within the committee that § 313 should be extended to federal primaries and nominating conventions because of their importance in determining final election results, *id.*, at 81-82,<sup>22</sup> there was disagreement on whether § 313 should also be amended to proscribe 'expenditures' in addition to 'contributions.' A majority believed that it should not be, in part because the amendment 'would tend to limit the rights of freedom of speech, freedom of the press, and freedom of assembly as guaranteed by the Federal Constitution.' *Id.*, at 83. Senators Bail and Ferguson, who dissented from this conclusion, nevertheless conceded that even as to 'expenditures' '[i]f the Political Action Committee had been organized on a voluntary basis and obtained its funds from voluntary individual contributions from the beginning, there could be no quarrel with its activities or program and in fact both are desirable in a democracy.' *Id.*, at 24. The House Campaign Expenditures Committee in 1946, however, strongly urged the adoption of a prohibition on 'expenditures' in terms condemning the activities of PAC without regard to the source of its funds.<sup>23</sup>

"Then, in 1947, Congress made permanent the application of § 313 of the Corrupt Practices Act to labor organizations and closed the loopholes that were thought to have been exploited in the 1944 and 1946 elections. These changes were embodied in § 304 of the labor bill introduced by Representative Hartley, which was adopted by the House and the conference committee with little apparent discussion or opposition.<sup>24</sup> The provision, however, provoked lengthy dis-

<sup>22</sup> See also H.R. Rep. No. 2093, 78th Cong., 2d Sess., 9 (1945); S. Rep. No. 1, pt. 2, 80th Cong., 1st Sess., 36 (1947). But see H.R. Rep. No. 2739, 70th Cong., 2d Sess., 40-47 (1940).

<sup>23</sup> The Senate committee did recommend that the use of general union funds to finance the distribution of a political pamphlet in connection with a federal election can be prosecuted as a test case to determine the scope of the term 'contribution' in § 313. S. Rep. No. 101, 70th Cong., 1st Sess., 57-59 (1945).

<sup>24</sup> H.R. Rep. No. 2739, *supra*, n. 13, at 30-40, 43, 46. The House Committee declared, for example *id.* at 43.

"The CIO Political Action Committee is a committee of the Congress of Industrial Organizations and, as such, under the Corrupt Practices Act, is likewise as a labor union prohibited [from] making any contribution in connection with any election at which a Representative to Congress is to be elected."

"The committee feels that whether or not the activities carried on by these organizations and the payment of salaries to men known as organizers or advisers who go into the congressional districts and actively assist in local campaign activities, and expenditures for radio time, newspaper advertising, printing and distribution of handbills and posters, and for transportation of voters, constitute violations of the letter of the Federal Corrupt Practices Act, they certainly constitute violations of the spirit and intent of the law and the [Act] should be so amended as to clearly and distinctly set out that such activities are prohibited."

The Senate committee studying the 1946 campaign joined this recommendation, but without any reference to PAC. See S. Rep. No. 1, pt. 2 *supra*, n. 13, at 28-30. See also H.R. Rep. No. 2093 *supra*, n. 13, at 9, 10-11 (noting the controversy over the scope of the term 'contribution' and expressing views seemingly sympathetic with prohibiting 'expenditures').

<sup>25</sup> See H.R. Rep. No. 245, 80th Cong., 1st Sess., 46 (1947); 93 Cong. Rec. 3429, 3533-3535 (1947); H.R. Conf. Rep. No. 810, 80th Cong., 1st Sess., 47-48 (1947). See also 81 Cong. Rec. 6380 (critical remarks of Representative Sabath following the conference committee report). The only statement offering a rationale for § 304 was made by Representative Robinson after the House had voted to override President Truman's veto of the Act. Robinson stressed that it was unfair to union members to allow the expenditure of union funds in support of candidates for federal office whom they opposed. See 93 Cong. Rec. 7402.

bate on the Senate floor when Senator Taft, sponsor of the Senate labor bill and one of the Senate conferees, sought to explain its import. That debate compellingly demonstrates that voluntarily financed union political funds were not believed to be prohibited by the broad wording of § 804. Thus, Senator Taft stated:

"[I]t seems to me the conditions are exactly parallel, both as to corporations and labor organizations. [An association of manufacturers] receiving corporation funds and using them in an election would violate the law, in my opinion, exactly as the PAC, if it got its fund from labor unions, would violate the law. *If the labor people should desire to set up a political organization and obtain direct contributions for it, there would be nothing unlawful in that. If the National Association of Manufacturers, we will say, wanted to obtain individual contributions for a series of advertisements, and if it, itself, were not a corporation, then, just as in the case of PAC, it could take an active part in a political campaign.*" 83 Cong. Rec. 6439 (1947) (emphasis added).

In response to a question by Senator Magnuson whether unions would be prohibited from publishing a newspaper favoring a candidate, mentioning his name, or endorsing him for public office, Taft continued:

"No; I do not think it means that. The union can issue a newspaper, and can charge the members for the newspaper, that is, the members who buy copies of the newspaper, and the union can put such matters in the newspaper if it wants to. The union can separate the payment of dues from the payment for a newspaper if its members are willing to do so, that is, if the members are willing to subscribe to that kind of a newspaper. I presume the members would be willing to do so. A union can publish such a newspaper, or unions can do as was done last year, organize something like the PAC, a political organization, and receive direct contributions, just so long as members of the union know what they are contributing to, and the dues which they pay into the union treasury are not used for such purpose." *Id.*, at 6440 (emphasis added).

When Magnuson rejoined that "all union members know that a part of their dues in these cases go for the publication of some labor [newspaper] organ," Taft concluded:

"Yes. How fair is it? We will assume that 60 percent of a union's employees are for a Republican candidate and 40 percent are for a Democratic candidate. Does the Senator think the union members should be forced to contribute, without being asked to do so specifically, and without having a right to withdraw their payments, to the election of someone whom they do not favor? Assume the paper favors a Democratic candidate whom they oppose or a Republican candidate whom they oppose. Why should they be forced to contribute money for the election of someone to whose election they are opposed? *If they are asked to contribute directly to the support of a newspaper or to the support of a labor political organization, they know what their money is to be used for and presumably approve it. From such contribution the organization can spend all the money it wants to with respect to such matters. But the prohibition is against labor unions using their members' dues for political purposes, which is exactly the same as the prohibition against a corporation using its stockholders' money for political purposes, and perhaps in violation of the wishes of many of its stockholders.*" *Ibid.* (emphasis added).

See also *id.*, at 6437, 6438.

"Senator Taft's view that a union cannot violate the law by spending political funds volunteered by its members was consistent with the legislative history of the War Labor Disputes Act and an express interpretation given to that Act by the Attorney General in 1944." His view also deflected concern that a broader

<sup>10</sup> See Hearings on H.R. 804 and H.R. 1483, before a subcommittee of the House Committee on Labor, 78th Cong., 1st Sess., 117, 133 (1943) (statements of Rep. Landis, sponsor of the measure) ("individual union members would not be prohibited from contributing" "if you have a membership of 500,000 and all the Democrats wanted to give a dollar apiece, and there were 300,000, that would be \$300,000 . . . Your whole organization could give as high as that if they donated only a dollar apiece"); letter from Attorney General Biddle to Senator E. H. Moore (Sept. 23, 1944) (emphasis added), reproduced in Department of Justice Press Release, Sept. 23, 1944, and noted in 4 Law. Guild Rev. No. 5, p. 49 (1944).

<sup>11</sup> "You also point out [the Attorney General wrote] that committees composed of members of unions are engaged in the solicitation of funds from individual union members and you assert that committees of this kind 'are as much a labor organization as a union organization itself.' This contention is inconsistent with the provisions of the statute. In amending section 313 of the Corrupt Practices Act, the [War Labor Disputes Act] provided that for the purposes of the amendment the words 'labor

application of § 601 might raise constitutional questions of invasion of First Amendment freedoms, and he wished particularly to reassure colleagues who had reservations on that score and whose votes were necessary to override a predicted presidential veto, see 93 Cong. Rec. 7463, of the Labor Management Relations Act. We conclude, accordingly, that his view of the limited reach of § 61 entitled in any event to great weight, as in this instance controlling. Cf. *Newspaper Pub. Assn. v. NLRB*, 345 U.S. 100, 106-111 (1953); *Bus Employees Wisconsin Board*, 340 U.S. 383, 392 n. 15 (1951). We therefore hold that § 61 does not apply to union contributions and expenditures from political funds financed in some sense by the voluntary donations of employees. Cf. *United States v. Auto Workers*, 352 U.S., at 592; *United States v. CIO*, 335 U.S. at 123.

"Section 205 of the Federal Election Campaign Act confirms this conclusion by adding at the end of § 610 the following paragraph:

"As used in this section, the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by national or State bank made in accordance with the applicable banking law and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with an election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and their families or by a labor organization to its members and their families on any subject; nor partisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families, the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: Provided, That it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction." 80 Stat. 10 (emphasis added).

This amendment stemmed from a proposal offered by Representative Hansen on the House floor, see 117 Cong. Rec. H 11476, to which the Senate acquiesced in conference. See *id.*, at H 12474 (joint conference committee report). Hansen stated that the purpose of his proposal was, with one exception not pertinent here, "to codify the court decisions interpreting [and the legislative history, explicating] section 610 . . . and to spell out in more detail what a labor union or corporation can or cannot do in connection with a Federal election." More over, there was substantial agreement among his colleagues that the effect of his amendment was, in fact, mere codification and clarification,<sup>1</sup> and even those who disagreed did not dispute that voluntarily financed union political funds are permissible. Indeed, Representative Crane, who led the opposition to the Hansen amendment,<sup>2</sup> himself had written the House committee provision for

organization" should have the same meaning they have under the National Labor Relations Act. I think it clear that committees of the kind that you describe are not labor organizations within the meaning of this definition and they would not be recognized as bargaining agencies by the National Labor Relations Board. Even if it were true that these committees were identical with the labor organizations to which their members belong—which I believe not to be the fact—there would still be no violation of law because the statute applies to contributions made by labor organizations and in this case the contributions are made by individuals and not by the committees."

<sup>1</sup>"See, e.g., 93 Cong. Rec. 6448, 6522-6523 (exchange between Senator Pepper, who in opposing § 304, derided it as Republican legislation in contravention of the First Amendment, and Senator Ellender who rose as a Democratic representative on the conference committee in support of Senator Taft's construction). See also *United States v. CIO*, 335 U.S. 100, 120 (1948)."

<sup>2</sup>"The exception involved whether nonpartisan registration and get-out-the-vote campaigns could be directed to the public at large. See 117 Cong. Rec. H 11477, H 11478, H 11488."

<sup>3</sup>*Id.*, at H 11477. See also 118 Cong. Rec. H 94. In determining that § 610 has always permitted unions to organize voluntarily financed political funds, Hansen relied, as we have done on Senator Taft's floor explanation of § 304 of the Hartley bill. See 117 Cong. Rec. H 11478, 118 Cong. Rec. H 94 H 95.

<sup>4</sup>See, e.g., 117 Cong. Rec. H 11479 (remarks of Rep. Hays), H 11481-H 11482 (remarks of Rep. Thompson), H 11480 (remarks of Reps. Steiger and Gude).

<sup>5</sup>See, e.g., 117 Cong. Rec. H 11480, H 11483-H 11484, H 11488, 118 Cong. Rec. H 88-H 90.



which the Hansen amendment was, in effect, substituted.<sup>28</sup> Mr. Crane's provision, like the Hansen amendment, was said in some measure to codify existing law,<sup>29</sup> and would also have specifically authorized voluntary funds.<sup>30</sup> This consensus that has now been captured in express terms in § 610 cannot, of course, by itself conclusively establish what Congress had in mind in 1947. But it does "throw a cross light" on the earlier enactment that, together with the latter's legislative history, demonstrates beyond doubt the correctness of the parties' common ground of interpretation of § 610. *Michigan Nat. Bank v. Michigan*, 365 U.S. 467, 481 (1961) (quoting L. Hand, J.). Cf. *NLRB v. Allis-Chalmers Mfg. Co.*, 388 U.S. 175, 194 (1967); *NLRB v. Drivers Local Union*, 302 U.S. 274, 291-292 (1960). (385 U.S. at pp. 403 to 418.)

The construction of the term "expenditure" in the foregoing discussion has been of the term used in the Federal Corrupt Practices Act of 1925 and the Federal Election Campaign Act of 1971. There is a reported decision which construed somewhat similar language in an earlier Federal campaign election financing law, the Act of 1910 as amended in 1911, *Newberry v. United States*, 256 U.S. 282 (1921).

Section 8 of the Federal Corrupt Practices Act of 1910, 36 Stat/822, amended in 1911, 37 Stat. 25, undertook to limit the amount of money which any candidate for Congress shall give, contribute, expend, use, or promise, or cause to be given, contributed, expended, used, or promised, in procuring his nomination or election. The Supreme Court held that these provisions were unconstitutional as applied to a primary election of candidates for U.S. Senate. In a concurring opinion, Chief Justice White said:

"(a) 'It is important, therefore, that you should understand the meaning of the language employed in this Corrupt Practices Act, and that you should understand and comprehend the effect and scope of the act, and the meaning of the language there employed, and the effect and scope and extent of the prohibition against the expenditure and use of money therein contained.

"The words 'Give, contribute, expend or use' as employed in this statute have their usual and ordinary significance, and mean furnish, pay out, disburse, employ, or make use of. The term 'To cause to be expended, or used' as it is employed in this statute, means to occasion, to effect, to bring about, to produce the expenditure and use of the money.

"The prohibition contained in this statute against the expenditure and use of money by the candidate is not limited or confined to the expenditure and use of his own money. The prohibition is directed against the use and expenditure

<sup>28</sup> The Hansen proposal was offered as an amendment to an amendment in the nature of a substitute to the bill as reported out of committee. Although the substitute amendment had no provision relating to § 610, see 117 Cong. Rec. H11468, it was expected that the Crane provision would be taken up as an amendment to the substitute amendment if the Hansen amendment failed to carry. See, e.g., id., at H11467-H11468 (remarks of Rep. Devine and Crane).

<sup>29</sup> See, e.g., id., at H11467 (remarks of Rep. Devine).

<sup>30</sup> The Crane provision would have added the following paragraph at the end of § 610:

"As used in this section, the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign (sic) committee, or political party or organization in connection with any election in any of the offices referred to in this section, including any expenditure in connection with get-out-the-vote activities. Nothing in this section shall preclude an organization from establishing and administering a separate contributory fund for any political purpose, including voter registration or get-out-the-vote drives, if all contributions, gifts, or payments to such fund are made freely and voluntarily, and are unrelated to dues, fees, or other monies required as a condition of membership in such organization or as a condition of employment." H.R. Rep. No. 82-564, p. 19 (1971) (emphasis different).

The principal bone of contention between the proponents and opponents of the Hansen amendment when it was first introduced was whether union or corporation treasuries could and should be available to finance get-out-the-vote drives. Representative Frenzel, for example, summarized the debate shortly before the House vote on the Hansen amendment was taken, 117 Cong. Rec. H11488.

"[I]t is important that we understand neither the Crane amendment nor the Hansen amendment is directed toward voluntary or COPE [the successor of PAC] monies. What we are talking about is Treasury money. The principal distinction is that the Hansen amendment would allow its use to get-out-the-vote drives for union members while the Crane amendment would not."

Following the conference committee report Crane rose once again in opposition to the Hansen amendment, this time and for the first time criticizing the amendment in its treatment of union political funds. The dispute centered then, however, not on whether voluntary funds were permissible, but on exactly what their prerequisites were. See *infra*, at 422-426.

of excessive sums of money by the candidate from whatever source or from whomsoever those moneys may be derived.'

"(b) 'The phrase which constitutes the prohibition against the candidate causing to be given, contributed, expended or used excessive sums of money, is not limited and not confined to expenditures and use of money made directly and personally by himself. This prohibition extends to the expenditure and use of excessive sums of money in which the candidate actively participates, or assists, or advises, or directs, or induces, or procures. The prohibition extends not only to the expenditure and use of excessive sums of money by the candidate directly and personally, but to such use and expenditure through his agency, or procurement or assistance.

"To constitute a violation of this statute knowledge of the expenditure and use of excessive sums of money on the part of the candidate is not sufficient neither is it sufficient to constitute a violation of this statute that the candidate merely acquiesces in such expenditures and use. But it is sufficient to constitute a violation of this statute if the candidate actively participates in doing the things which occasion such expenditures and use of money and so actively participates with knowledge that the money is being expended and used."

"Having thus fixed the meaning of the prohibitions of the statute, the court came to apply them as thus defined to the particular case before it, saying:

(256 U.S. at pp. 272-3.)

ELIZABETH YADLOSKY,  
Assistant Chief, American Law Division.

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STATEMENT OF JIM MCCLELLAN, NATIONAL CAMPAIGN COORDINATOR FOR DR. BENJAMIN SPOCK'S 1972 PRESIDENTIAL CAMPAIGN AND FOR THE PEOPLE'S PARTY.

Dr. Benjamin Spock ran for President of the United States last year. He lost to Richard Nixon. He even lost to George McGovern—but only by 17 electoral votes.

You probably didn't even know about his candidacy, if you—like 60% of the American people—depended on television as your primary news source in 1972. The network coverage of Dr. Spock's campaign can be described as somewhere between non-existent and minimal. This lack of media attention was unfair both to Dr. Spock and to the American people.

Critics of the "Equal Time Doctrine", Section 315 of the Communications Act would like to provide greater opportunities for the voters to see and hear the candidates who seek their votes. This is a goal with which the People's Party is in sympathy. Our concern is that it be realized in a manner consistent with America's high ideals.

Given America's avowed preference for democratic principles, it seems inexplicable that so much of our history is characterized by people pleading for liberties and opportunities which should have been theirs as a birthright. The problem of equal opportunities for all candidates irrespective of party affiliation is one more example.

Certainly the Founding Fathers never conceived of a political process closed to all but the candidates of two major parties; in fact, they saw no use for a party system at all. Most Americans today would also agree that membership in either the Democratic or Republican Party should not be held as a requisite for candidacy.

Dr. Spock and all other citizens have a right to run for office and a right to be treated on an equal basis with candidates of the Democratic and Republican Parties. Yet candidates who choose not to be Democrats or Republicans seldom are elected. This is not due so much to the old belief that 'third parties run against the grain' as to the fact that the Democratic and Republican Parties by law and custom have been given every possible advantage while those who seek to oppose them have extremely limited financial resources, no access to the communications media and poor prospects for even being listed on the ballot.

The Democratic and Republican Parties need to do no more than notify the appropriate state office in order to have their candidates' names printed on the ballot, but complicated and insurmountable legal barriers keep third parties off the ballots of most states. And even when a third party manages to satisfy all known requirements the chances are good that the Secretary of State, Attorney General or some Bi-Partisan Election Commission (never *non-partisan*) will

came up with a loophole or technicality to keep the party's candidates off the ballot.

The courts are full of cases filed every election year against ballot access laws written by Democratic and Republican legislatures which discriminate against new parties. It would seem that these court challenges, many of which are successful, would prompt some electoral reform. However, peak periods of third party activity have traditionally been met with a rash of new laws designed to more effectively curtail minor party development.

George McGovern reported spending around 27 million dollars on his campaign. Richard Nixon reported spending 45 million. They were able to spend sizable portions of this money to reach the electorate through television and radio broadcasts. Dr. Spock's campaign in 1972 operated on a budget of \$20,000, not a cent of which was spent for media. Great amounts of money are required to adequately finance a campaign under the existing system. Democrats and Republicans complained that they lacked the funds to present their views over the airways as fully as they desired. And third parties have no where near the access to resources that the Democrats and Republicans have.

The Presidential Campaign Fund Act of 1971 appeared to offer a solution. Under its provisions, tax-payers are allowed to check-off one dollar of their income tax for the party of their choice or for a general fund to be divided among the eligible candidates for President. Though this seems a boon for minor parties, in reality it is doubtful that any but the Democrats and Republicans will receive the money checked-off for them and the non-partisan fund is prorated on a regressive system which gives the major parties a higher percentage than the minor parties. Again, the greatest share of the resources go to those who already have a substantial advantage, while those with meager resources and needing more to effectively compete get little or nothing.

But the problem of securing a column on the ballot and financing a campaign could perhaps be overcome if we had access to the electorate through the media. Society has grown so massive that it is no longer possible for a candidate to talk directly to the electorate. Conversely, most of the people never see a political candidate and they have to depend on the communications media to see for them. If the media does not cover the campaign of a candidate most people are left unaware of it or if they learn about it through non-media sources they tend to discredit it because the media felt it unworthy of mention.

The Democratic and Republican Presidential candidates had no trouble getting the media's attention in 1972. Each night the networks gave television viewers ten to fifteen minutes of George McGovern and Richard Nixon. Camera crews even followed their families around. Every minute of the Democratic and Republican Conventions were covered live on television and radio. As President, Richard Nixon had access to the media anytime he chose to use it. McGovern was given time to outline his platform and announce his choice for Eagleton's replacement on August 10. A long string of "Meet the Press", "Face the Nation", and "Issues and Answers" appearances by the Democratic and Republican candidates, their families, friends and associates were also exempted from equal time provisions.

Dr. Spock's campaign which began in December of 1971 and carried him through 25 states was not even mentioned by the networks until July 28, 1972. Throughout the whole campaign Dr. Spock received the following coverage:

(1) Following the Party's convention on July 29, 1972 telecasts over the CBS and NBC networks included brief one to two-minute discussions of the Convention:

(2) A September 13, 1972, appearance on the NBC early morning, "Today Show";

(3) A seven-minute segment on the CBS morning news on October 13, 1972;

(4) A 2.5-minute segment on the October 30, 1972, telecast of the ABC network news;

(5) An October 8, 1972, appearance with three other candidates on the ABC "Issues and Answers" show.

or about the equivalent of one evening's coverage of McGovern and Nixon on the three network news programs. Each of Dr. Spock's appearances was prompted by an equal time or fairness complaint filed by the People's Party.

Sure, any citizen can still run for President. But facing discriminatory election laws and hostile election officials and running against opponents who have great financial resources, an independent candidate cannot truly compete. And

when the clincher is thrown in—the Democratic and Republican Parties' monopolistic hold over the communications media—about the only thing left undone is to declare that only Democrats and Republicans can run.

The influence exerted over the political process by the communications media is enormous. The media does not simply reflect the credibility of a candidate. To a very great extent it creates credibility. The amount of coverage and its slant determines the way the public perceives a candidate for office. The news is what the television commentators say it is. If a candidate is not worth mentioning on the nightly news, he must not be worth considering; or so it must seem to the public.

Whole legions of Democratic and Republican contenders—Scoop Jackson, Vance Hartke, Wilbur Mills, Terry Sanford, Pat-y Mink, Sam Yorty, Shirley Chisholm, Paul McCloskey, John Ashbrook—were brought from relative obscurity to the public's attention by the media during the spring and early summer of 1972. George McGovern himself was still largely an unknown until he began getting regular coverage in the early Spring. While the media made household words of the Democrats and Republicans it ignored the People's Party candidate. Though 7 out of 10 Americans were familiar with Dr. Spock's name before 1972, maybe one in a thousand was made aware of his candidacy during his first 6 months of campaigning. Perhaps many still don't know. The inequity is compounded by the fact that most of the Democratic and Republican candidates who monopolized the public airways during spring and summer—Mills, Chisholm, McCloskey, Yorty, *et al.*, were only aspirants for their Party's nomination—and most were not expected to survive as viable candidates past July. Dr. Spock on the other hand was a candidate for President whose name (Democratic and Republican election officials permitting) would appear on the November ballot.

The lack of coverage definitely had a chilling effect on Dr. Spock's efforts and on the development of the People's Party. Where we were able to reach people with the campaign we found many sympathetic supporters. It was impossible, however, without media coverage to keep those who were interested informed of the day-to-day progress of our efforts or to even reach the potential constituency. Some people who might have been receptive were reluctant to commit their time and resources to the effort since the media had not given it the stamp of legitimacy that follows from regular coverage.

The repeal of network responsibility to fairly divide time among all candidates would not, as those who advocate it hope, broaden the debate. It would merely mean the public would see even more of the Democratic and Republican candidates and less of other candidates. The best way to truly broaden the debate and improve its quality is to provide all candidates with access to the public airways.

Minor parties are more apt to bring controversial issues into the political arena than Democrats or Republicans. The latter, interested more in winning elections than raising issues, would just as soon overlook the hottest issues. In the past campaign Dr. Spock talked about quite a few issues that neither of the major parties discussed but which were definitely on the minds of the people:

Unconditional repatriation of war resisters.

A minimum income of \$6,500 a year for a family of four; a maximum income of \$50,000 a year with a maximum inheritance allowance of the same amount.

An end not only to American military involvement in Southeast Asia, but the withdrawal of American troops from all military installations on foreign soil.

Full liberation of women, blacks, Chicanos, Native Americans, Gay people and other minorities.

Worker-consumer-community control of industry.

Free, top Quality medical care for all Americans dispensed through neighborhood health centers under community control.

Legalization of marijuana and the repeal of all laws which create victimless crimes.

Abortion on demand.

A decentralization of authority so that neighborhoods can resolve their own problems.

These and the other proposals we made during the campaign are not idle thoughts. They are carefully reached judgments about what we feel this country needs. We believe we can back them up with rational arguments, the American people would accept if they were ever allowed to hear them.

The networks feign panic at the thought of making airtime available to all candidates. They like to point out that there were twelve candidates for President in 1972 and they act bewildered by the thought of having to deal with such "irrelevance." Actually, it would be disappointing to learn that there were so few as twelve different approaches to government among 200 million people. The so "minor" parties, most particularly the People's Party, American Independent Party, Libertarian Party, Prohibition Party, Socialist Party, Social Workers' Party, Communist Party (I have never met anyone from the Capitalist Party, Universal Party or America First Party and only know of them because the networks include them), are distinctly different both from each other and from the Democratic and Republican Parties which seem distinctly alike in comparison. All the minor parties have serious objectives in view and are dedicated to them. To dismiss minor parties as "irrelevant" and exclude them from the market place of ideas would be inexcusable.

There is much the American people can gain from exposure to each of this country's political parties. It might also be added that thirty minutes of television time devoted to any presidential candidate would have more redeeming social value than an equivalent portion of Lucy, Marcus Welby or Dean Martin. It might cut into network profits a bit, but the networks should not mind such a small sacrifice once every four years in return for the privilege of transmitting on the public airways.

The American people have always been on guard against government interference with the freedom of the press. With regard to the public airways, government's responsibility is to ensure the freedom of access to the media. It is just as unthinkable for three corporations—ABC, CBS, NBC—to have the power to decide for the people which candidates are important and worthy of mention and which are not as for government to similarly censor the press. Congress must protect the candidate's right to be heard and the people's right to hear.

In return for repeal of Section 315, Frank Stanton of CBS repeated before the Senate Subcommittee on Communications "our standing offer . . . of eight free prime time hours for the Major Presidential and Vice-Presidential candidates in the 1976 campaign." Julian Goodman of NBC generally offers "four prime time half hours." Congress should not sell out the public interest quite that cheap.

The Presidential campaign season lasts at least ten months. Each local affiliate of the three major networks broadcasts around seventeen hours a day seven days a week. Ten hours of television time for a presidential campaign is a meager offer compared to the potential of the media for adequately informing the people of the issues that face them. CBS could offer this same four hour segment to the Presidential tickets of all parties and NBC could give its one hour gift to all parties and the reservoir of available broadcast time would have barely been touched.

The networks contend they would be fair to all parties if the "Equal Time Doctrine" were repealed. It would be nice to be able to believe them, but their record for fairness has been less than impressive in the past even though Section 315 has supposedly been in effect. Dr. Spock conducted a full-scale presidential campaign. He followed a vigorous schedule which took him into most of the fifty states. He held almost daily press conferences to discuss his positions on the issues, addressed consistently large and enthusiastic audiences at universities, churches, factories, community centers, spoke at rallies for local People's Party candidates, walked picket lines, became the first political candidate to campaign on a United States military base. The government thought him a serious enough candidate to accord him Secret Service protection, but the days when the networks saw fit to present his campaign to the electorate can be counted on the fingers of one hand.

The repeal of Section 315 would not provide voters with more information about the candidates and the issues. After all, the "Equal Time Doctrine" is a safeguard, not an obstacle. It does not forbid the networks from granting time to the candidates; it merely ensures that when time is granted it is done in a fair and equitable manner—hardly a subversive idea.

The People's Party feels there are three minimal acts Congress should take with regard to public airways in order to safeguard the rights of candidates and promote the national interest.

First, Congress should close the loopholes in Section 315 by ending the exemptions. The major party conventions were given gavel-to-gavel coverage as well as pre-convention specials and post-convention wrap-ups. Democratic and Republican Conventions have come to be geared more to the television audience than to the delegates. Prime-time scheduling of important events, the broadcasting of

lengthy films and other promotional devices, side shows such as George McGovern's televised trip to his hotel lobby to confront demonstrators, Richard Nixon's televised appearances at his Youth Rally so he could make two prime time acceptance speeches—all these and countless other devices have made the conventions nothing but week-long commercials. The convention exemptions from Section 315 and the other exemptions—bona fide news interviews, bona fide news documentaries, on-the-spot coverage of bona fide news events—have been abused to the benefit of the Democrats and Republicans and to the detriment of other parties.

Second, Congress should require that a certain minimum amount of free time be provided to all presidential candidates. The Post-Newsweek chain of television and radio stations made 30 minutes of free time available to all candidates for President and lesser amounts of time available for senatorial and congressional candidates of all parties in 1972 and seems to have survived in good shape. If Congress feels a need to ensure that only the more serious presidential candidates are granted time, it could restrict the offer to candidates of national political parties as defined in Title VII of the Revenue Act of 1971, Section 41(c) (PL 92-129).

Third, Presidential tickets should be permitted to buy time on the airways at a standardized percentage of their resources as listed in the last previous report to the GAO. This would reduce the advantage of a monied candidate over a poor candidate and help to reverse the trend which forces the people to compete with corporations and big donors for the affections of their elected representatives.

#### STATEMENT OF NATIONAL ASSOCIATION FOR CHRISTIAN POLITICAL ACTION

The National Association for Christian Political Action, an independent association of citizens for pluralistic equity in public life, makes the following official statement on S. 372:

Regarding Section 2: In the interest of fairness and equal justice for all, we must oppose any exemption of broadcasters from Section 315 of the Communications Act of 1934. Repealing Section 315 for Presidential and Vice-presidential candidates would insure the continuation of only two major political parties. It would do away with truly representative government, and further alienate the 45% of American voters who said in a post-election poll in 1972 that they feel irretrievably removed from their government. This provision of S. 372 is unfair to minorities and constitutes direct suppression and prior censorship of their political viewpoints by the broadcaster. The broadcaster is not qualified to determine which candidates, parties, issues, and spokesmen are the most worthy of air time.\*

NACPA recommends that Section 315 of the Communications Act be amended to make the provision of free air time to any candidate *mandatory*, not optional. It must be made mandatory because stations now usually do not give air time to anyone and the richest candidate can then buy the most exposure and influence time. But what, after all, are the airwaves for? They are for the people, held in public trust by publically-regulated licensees. These licensees are permitted to operate the scarce spectrum channels and even to make a substantial profit in doing so, as long as they are responsive to the public interest, convenience, and necessity. Primarily, therefore, the airwaves are to be used as a forum for public issues, not for businessmen to make money on.

The quadrennial Presidential election is perhaps the most important public issue in our nation. Is it asking too much for the broadcast industry to give the people and their diverse political parties and opinions air time once every four years, without partiality to the size and prestige of the political organization involved?

Regarding other provisions of S. 372: NACPA heartily endorses any limitations on campaign spending which are equitably applied. The public's selection of candidates must be related to issues and platforms of substance, and not to the candidate's financial resources.

Respectfully submitted.

JOHN R. HAMILTON,  
Washington Representative.

\*Correction—the following sentence should be added to the first paragraph of the statement on the preceding page: This can only be decided by the public themselves, to whom the broadcast stations must be open for the presentation of all viewpoints and programs submitted to it.

KING OF PRUSSIA, PA., March 12, 1973.

NICHOLAS ZAPPE,  
*Counsel, Senate Commerce Committee Communications Subcommittee, Room  
 5205, New Senate Office Building, Washington, D.C.*

DEAR MR. ZAPPE: I wish to submit for consideration by the Subcommittee this Statement on Federal election campaign reform.

During the past year I have had the experience of running for and winning the Democratic nomination for U.S. House of Representatives, and of running and losing in the general election of November 7th. These experiences have made me an ardent advocate of election campaign reform.

The essence of political democracy is government of, by and for the people. "By the people" means that all eligible voters elect by majority vote the person who will represent them in the Congress. The more free, fair and fully-informed that vote, the more truly representative of all the voters in that District the member of Congress will be. That should be our goal. However, under present campaign practices, our elected representatives are seldom fairly chosen; they are often bought; and voters are almost never fully informed.

The only way to assure fair elections and therefore true representation is to provide equality of opportunity for candidates. All legitimate candidates should be funded equally and have equal access to media.

The press has reported in my own county that the winning party spent nineteen times more on last year's election campaign than the losing party. The registration is a lop-sided 68% to 27%. The minority has not won a Congressional seat in 116 years. Such a situation makes a mockery of the two-party system. Under one-party rule, there is little incentive for a meritorious candidate in the minority party to enter a virtually hopeless race. The situation is compounded when the dominant party is also the wealthy party, as in my District. One's economic status should not be the determining factor in whether or not one's talents shall be offered in political service to one's country.

The incumbent has tremendous advantages. Financially, the incumbent enjoys the franking privilege while the challenger pays about \$14,000 just for stamps for one mailing to households. The incumbent is provided with an allowance for offices and staff and press secretaries in Washington and in his home District while the challenger must pay for and must report all of these. The incumbent's staff and offices are not only provided free of charge, but are apparently not reportable as campaign expenditures. The challenger must report them.

Raising funds is generally easier for the incumbent. He has done it before; his files are intact. He is considered a better "investment" than the challenger, for he is already exercising his influence as a federal official. More often than not, the contributor expects certain votes for his money. If the Congressman serves on committees, the "special interests" relating to those committees can be expected to contribute heavily to his campaign.

For the greater part of my campaign, I had to spend more time fund-raising than I did campaigning. In the early weeks, it was most difficult. During the last month, money came in very well, but it was too late to plan for its most strategic use.

The public funding of campaigns would be infinitely more fair. It would eliminate the need for private gifts. It would eliminate fund-raising. It would reduce the opportunities for hidden payoffs. It would improve the chances that the campaign be fought upon the issues. It would attract better qualified candidates. It would simplify the reporting of campaign finances. The public funding of campaigns could vastly reduce their costs. A low budget figure could be set which would tend to eliminate frills and irrelevancies which detract from the issues.

Campaign costs are exorbitant. Professional managers advised that I would have to spend between \$200,000 and \$250,000. An independent committee denied me funds because my level of spending was too low, being under \$100,000.

The Election Campaign Act of 1971 has helped in limiting the amount candidates may contribute, and in producing more disclosures about campaign financing. But enforcement seems impossible in all cases because there is no way of knowing about evasions. The result may be to encourage such evasion while leading the public into thinking all contributions and expenditures are in the open.

A further right that should pertain equally to all candidates is the right to equal time on television and radio. Such time should be mandated, or required upon the request of one candidate. In my campaign, only one TV station was

willing to air a program, a half-hour interview of both candidates. Other channels refused on the ground that they would have to air every race in the area. That should be their responsibility. The allotted time for media broadcasts should be limited, but equalized for both or all legal candidates.

Newspapers should similarly grant columns of space equally to candidates, periodically. This need not pre-empt hard news of candidates, but would permit a thorough discussion of the issues. There would be ample latitude for each candidate to decide how best to use his space. It would be of great benefit, again, for candidates to be able to plan for the use of such guaranteed space, rather than trying to invent ways of making news.

Another inherent unfairness in the situation is that the incumbent is always considered newsworthy by virtue of his official status. Certain other advantages will always apply. His recognition factor will be greater. He will have performed the many favors for constituents expected of members of Congress. He will have compiled a record to which he will point with pride. Thus, the outcome will always be weighted in favor of the status quo. Acceptance of this immutable fact of political life makes it the more imperative to equalize the other variables.

Our founding fathers did not intend the House of Representatives to be self-perpetuating. The Senate was to provide continuity, while the House was to have a high turnover rate in order to embody the most current concerns of the community. But today, members of the House tend to make such representation their life's work. When such work becomes a career in itself, the incumbent will have further incentive to secure his position. I feel we should try to get back to the ideal of Representatives serving the general public rather than themselves.

Our House of Representatives is not truly representative of our voting population. Only 2.6% of its members are women, while women are 53% of the electorate. In other ways the members are all too homogeneous, unlike our population, perpetuating the stereotype of the "typical" Congressman. This contributes to growing lack of confidence in the ability of the voter to effect change. There is profound apathy on the part of the public regarding the responsiveness of Congresspersons to the desires and needs of their constituents. There is profound cynicism about the processes of selecting our leaders, as revealed by the abysmal low turnout in the last election. Congressional reform begins with equal opportunity for candidates.

I realize that the measures I have suggested would alter "politics as usual" in this country. They would encourage competition between the candidates based upon the issues, not upon the financial backing of special interests. They would encourage a lifelike discussion of those issues, resulting in greater public understanding and a more informed vote. They would encourage more highly qualified candidates to run for office without regard to their personal wealth or lack of it. They would invigorate the two-party system. The election process would be fairer, more accessible, more open to public scrutiny, and more relevant to the issues, vitalizing our system of political democracy and restoring public interest and confidence in its elected officials.

I believe, furthermore, that without these measures, such political democracy cannot be achieved.

Yours sincerely,

KATHERINE I. CAMP.



# APPENDIX

## REPORTED NATIONAL-LEVEL POLITICAL SPENDING

[Note: "D" denotes Democratic; "R" denotes Republican]

Year and man elected	Party spending	Expenditures		Total vote	Cost per vote (cents) <sup>1</sup>
		Amount	Percent		
1912—Wilson (D).....	Total.....	\$2,876,816		15,034,000	19
	Republican.....	1,076,548	37.4		
	Democratic.....	1,134,848	39.4		
	Progressive.....	665,420	23.1		
1916—Wilson (D).....	Total.....	4,726,155		18,528,000	26
	Republican.....	2,441,565	51.7		
	Democratic.....	2,284,590	48.3		
1920—Harding (R).....	Total.....	6,887,872		26,769,000	26
	Republican.....	5,417,501	78.7		
	Democratic.....	1,470,371	21.3		
1924—Coolidge (R).....	Total.....	5,366,277		29,085,000	18
	Republican.....	4,020,478	74.9		
	Democratic.....	1,108,836	20.7		
	Progressive.....	236,963	4.4		
1928—Hoover (R).....	Total.....	11,598,461		36,806,000	32
	Republican.....	6,256,111	53.9		
	Democratic.....	5,342,350	46.1		
1932—Roosevelt (D).....	Total.....	5,146,027		39,758,000	13
	Republican.....	2,900,052	56.4		
	Democratic.....	2,245,975	43.6		
1936—Roosevelt (D).....	Total.....	14,116,343		45,655,000	31
	Republican.....	8,951,602	63.4		
	Democratic.....	5,164,741	36.6		
1940—Roosevelt (D).....	Total.....	26,917,051		49,900,000	54
	Republican.....	18,864,117	70.1		
	Democratic.....	8,052,938	29.9		
1944—Roosevelt (D).....	Total.....	26,193,311		47,977,000	55
	Republican.....	16,195,376	61.8		
	Democratic.....	9,997,935	38.2		
1948—Truman (D).....	Total.....	8,771,819		48,794,000	18
	Republican.....	3,686,775	42.0		
	Democratic.....	2,266,231	25.8		
	Labor.....	1,291,343	14.7		
	Progressive.....	1,365,389	15.6		
	States' Rights.....	162,081	1.8		
1952—Eisenhower (R).....	Total.....	19,421,287		61,551,000	32
	Republican.....	12,229,239	63.0		
	Democratic.....	5,121,698	26.3		
	Labor.....	2,070,350	10.7		

See footnotes at end of table.

## REPORTED NATIONAL-LEVEL POLITICAL SPENDING

(Note: "D" denotes Democratic; "R" denotes Republican)

Year and man elected	Party spending	Expenditures		Total vote	Cost per vote (cent)
		Amount	Percent		
1956—Eisenhower (R).....	Total.....	\$21,518,260	.....	62,027,000	35
	Republican.....	13,220,144	61.4	.....	.....
	Democratic.....	6,492,834	30.2	.....	.....
	Labor.....	1,805,482	8.4	.....	.....
1960—Kennedy (D).....	Total.....	27,202,155	.....	68,838,000	40
	Republican.....	12,950,232	47.6	.....	.....
	Democratic.....	11,800,979	43.4	.....	.....
	Labor.....	2,450,944	9.0	.....	.....
1964—Johnson (D).....	Total.....	38,079,829	.....	70,654,000	54
	Republican.....	19,314,796	50.7	.....	.....
	Democratic.....	14,948,791	39.3	.....	.....
	Labor.....	3,816,242	10.0	.....	.....
1968—Nixon (R).....	Total.....	56,397,261	.....	73,212,000	77
	Republican.....	29,592,832	52.5	.....	.....
	Democratic.....	12,577,715	22.3	.....	.....
	Labor.....	7,241,259	12.8	.....	.....
	AIP <sup>2</sup> .....	6,985,455	12.4	.....	.....

<sup>1</sup> Figures represent total spending divided by the number of votes cast. The actual cost-per-vote figures are higher since the spending figures are not complete.

<sup>2</sup> George C. Wallace's American Independent Party.

Note: The above figures are the best available summaries of general election campaign spending reported by national-level committees of the Republican, Democratic, and major third-party groups since 1912, plus labor organization spending since 1948. It should be noted that the figures provide only the roughest guide of spending. Accounting methods of political committees have varied drastically over the years. In some cases, fund transfers from committee to committee have been counted, and in others, they have not. And some figures include totals of local political groups. In all cases, funds here represent only a fraction of total spending. For example, the figures do not include reports of all national-level committees, of congressional candidates, or on primary and State-level campaigns.

Source: Citizens' Research Foundation; Governmental Affairs Institute, "The Two Party System in the U.S.," by William Goodman.

## VOLUME IV

## HISTORY OF AMERICAN PRESIDENTIAL ELECTIONS, 1789-1968

(By Arthur M. Schlesinger, jr., *Editor*, Albert Schweitzer Chair in the Humanities, City University of New York; Fred L. Israel, *Associate Editor*, Department of History, City College of New York; William P. Hansen, *Managing Editor*)

## FINANCING PRESIDENTIAL CAMPAIGNS

(By Herbert E. Alexander)<sup>1</sup>

## I. HOW THE MONEY IS SPENT

A modern presidential campaign is a vast and complex operation, costing many millions of dollars, and is in sharp contrast to the notion of John Quincy Adams that "The Presidency of the United States was an office neither to be sought or declined. To pay money for securing it directly or indirectly, was in my opinion incorrect in principle." However noble the principle, there has never since George Washington been a time when it could practically be honored. Whether campaigning was for nomination or for election, somebody had to pay. Whether campaigning was by torchlight and cider or klieg-light and coke, somebody had to pay.

In every society in which free elections have been held, the problem of who pays the political bills, and why, has arisen. These questions were accentuated

<sup>1</sup> Herbert E. Alexander is the Director of the Citizens' Research Foundation. He served as a Consultant to the President of the United States, 1962-1964. Dr. Alexander is the author of "Financing the 1960 Election" and "Financing the 1964 Election."

American system not only by the development of a highly competitive system, but by the gradual democratization of the Presidency, the advent of universal and then universal suffrage, the introduction of national conventions and also primary elections, and the development of costly communications and campaign technology.

It is known of campaign finance in the early days of the Republic. With the requirement that records be filed, only fragmentary bits of information have survived. Though more comprehensive information is available from 1860 on, even costs data is most reliable only for elections in the twentieth century. Differences about the nature of government, and about public policies, made ideological divisions inevitable from the outset. Competing philosophies required loyalty, and supporters of differing views and candidates were quick to take the printed word, and not only at elections times. In 1791, Thomas Jefferson invited Philip Freneau to Philadelphia, gave him a part-time clerkship for forgeries in the State Department, and made him editor of the "National Gazette," the subsidized organ of the Anti-Federalists. The Federalists had been using their own paper, the "Gazette of the United States," with money from Alexander Hamilton, Rufus King, and from public printing subsidies.

A system of a newspaper supporting, and being supported by, one political party or the other—and often supplemented with government printing subsidies—quickly developed. Editors' fortunes rose and fell with the political fortunes of their patrons. Newspapers vilified candidates mercilessly, and variations spun off their own papers.

Early campaigning for presidential office took place in newspaper columns. In 1830, when August Belmont wanted to further the political ambitions of James Buchanan, he contributed \$10,000 to help start a newspaper for Buchanan's support. Abraham Lincoln secretly bought a small German weekly in 1860, for four hundred dollars, and turned it over to an editor agreed to follow the policies of the Republican party and to publish in both English and German.

In many places it became a tradition that the editor of a paper of the party had won the last election would operate the post office in the years following a national victory. The award of government printing contracts as a reward for newspaper favorites was not completely abolished until the Government Printing Office was established in 1860.

Only newspapers were used to publicize competing views. In 1800, Thomas Jefferson contributed fifty dollars for the publication of party pamphlets, and friendly congressmen to write letters favoring him to their constituents.

In the campaign of 1832, when the fight between Jackson and the Bank of the United States was at its height, the Bank spent some \$80,000 on pamphlets attacking Jackson's veto of the Bank bill. This was a very large sum in those

days. In the early 1800's books, pamphlets, and even newspapers were handed out person to person until they were no longer readable. The reaction to campaign publicity was by no means all favorable. A letter-writer to the "Charleston Mercury" complained that "We are so beset and run down by Federal republicans and their pamphlets that I begin to think for the first time that there is something wrong in the system they attempt to support, or why all this violent electioneering?" And John Quincy Adams complained, "The mode of expending public money [in political office] is by the circulation of newspapers, pamphlets, and handbills; it is practiced by all parties, and its tendency is to render elections altogether venal."

Campaign biography, a staple of present-day presidential contests, made its appearance in 1824. *The Life of Andrew Jackson*, written by John Henry Poinsett, started the tradition of the man born in a log cabin whose rise from humble origins to become a great statesman. The Whig party, during the campaign of Henry Clay, sold copies of his biography for three cents a copy, or \$100,000 per thousand. In 1852, Nathaniel Hawthorne wrote the authorization of the life of his Bowdoin classmate Franklin Pierce—needed to run the Whig campaign slogan of that year: "Who is Franklin Pierce? When Abraham Lincoln was nominated by the Republican party in 1860, he was not known outside the state of Illinois. Party leaders saw the need for "a series of copies of some cheap life [of Lincoln] to be put in the hands of indifferent, and secluded voters." One author for Lincoln's campaign biography—a young Ohio newspaperman named William Dean Howells—was rewarded by appointment as consul to Venice.

Some biographies were sold and some were given away by the parties—much as is done today. Also distributed and sold by the parties were "Campaign Textbooks." Horace Greeley, one of Lincoln's most vocal supporters, was one of the editors of the Republican "Campaign Textbook" of 1860—a large volume of double columns of fine print, crammed with speeches, documents, and tables to be used by campaign speakers. It was sold for sixty-six cents a copy in quantity lots, and by October 1 had gone into fourteen editions. In New York alone ten thousand speeches were said to have been made using it and similar publications for guidance; fifty thousand such speeches were said to have been given by Lincoln's supporters throughout the Union.

Even though the presidential candidate himself did not travel or make speeches, those working on his behalf needed money for their activities. Of course, more than just the printed word was used to spread the story. Pictures, buttons, banners, and novelty items appeared. Rallies were held. Andrew Jackson retired to the Hermitage after he was nominated, but his supporters held torchlight parades and hickory-pole raisings. By the end of Martin Van Buren's term as President in 1840 it was clear to the Whig leaders that the way to win elections was to appeal to the masses of the people. William H. Seward wrote, "The rich we have always with us"—it was the rest of the people who had to be reached. According to one observer, in William Henry Harrison's campaign in that year, there were "conventions and mass meetings, parades and processions with banners and floats, long speeches on the log-cabin theme, log-cabin song-books and log-cabin newspapers, Harrison pictures, Tippecanoe handkerchiefs and badges, log-cabin headquarters at every crossroads, with the latchstring out and hard cider always on tap." "Fifteen acres of men and 6,000 females" were reported to have attended a rally for Harrison at Tippecanoe, Indiana.

After Harrison's election, it was clear to the rich and wellborn that the votes of the humble were needed, too. They were appealed to in many ways. Writing of the 1852 campaign, Nathaniel Hawthorne said: "His [Pierce's] portrait is everywhere, in all the shop windows, in all sorts of styles, in wood, steel and copper, on horseback, on foot, in uniform and in citizen dress in iron medallions in little brass medals, and in handkerchiefs."

Carl Schurz, writing of the 1860 campaign, caught the flavor of the times when he wrote that the people did not seem to have much to occupy themselves with, besides attending meetings, listening to speeches, and participating in torchlight processions and rallies. Political campaigns provided an opportunity for a widely scattered population to meet and socialize. Orators were judged by the length—not the content—of their speeches. A two or three hour speech was not uncommon. Old friends met again, children were shown off proudly, marriageable daughters had a chance to find a husband.

Stephen A. Douglas grasped the feeling, too, when he decided to barnstorm the country in the 1860 campaign—a means of campaigning not really tried again until William Jennings Bryan toured the country in 1896. In contrast, William McKinley sat on his front porch and let the people come to him. Special trains were run to his home town of Canton, Ohio, with the railroads cooperating by cutting fares. The *Cleveland Plain Dealer* reported that going to Canton was "cheaper than staying at home." Meanwhile the "Boy Orator" travelled eighteen thousand miles, giving some six hundred speeches at least to an estimated five million people—and lost. The chief issue of the campaign, gold versus free silver gave the Republicans an opportunity to use a gold theme—there were gold canes, gold glass lilies with McKinley's portrait, gold badges, gold neckties, and gold handkerchiefs available to McKinley supporters in 1896.

The printing presses continued to grind out greater and greater amounts of material. The Republican party, in 1896, is estimated to have sent out 120 million pamphlets, at a cost of \$80,000 for shipping alone, and a total cost of \$500,000. Two-hundred and seventy-five different pamphlets were written, and many were translated into foreign languages. The foreign language press, too, became increasingly important.

As more and more people had to be reached, costs rose, and greater efforts were made to reach them. In 1904, the Republican National Committee spent \$30,000 on lithographs and buttons. Four years later, \$100,000 was spent for all Republican advertising—including buttons, news service, and lithographs. Campaign buttons could be bought by the parties at five dollars per thousand, in lots

hundred thousand in 1912 and 1916. By 1920, the Republicans were spending much for billboards—\$159,265—as they had for all advertising in 1908. So spent \$200,000 to print and distribute fifteen million lithographs of candidate.

He was ignored. Those who did not care to read, could, in 1928, look at cartoons in a pictorial life of Hoover, for which the Hoover for President Committee of New York paid \$4,363. The photographic plates and mats were sold free to any interested newspaper. Twenty years later—124 years after the first campaign biography—a comic book biography was offered to the public when the Democrats distributed three million copies of a comic book life of Truman. In recent years, official or friendly biographies have spread in the re-nomination period—to dark horse as well as leading candidates—and have been added the books written by (or ghostwritten for) the candidates themselves, conveniently ready for publication at the beginning of a campaign. In 1964, for example, Barry Goldwater's book, *Where I Stand*, was published in the trade and sold in large numbers; at least \$74,000 was spent for it by various Republican campaign committees.

In 1968, the Republican party set up a unique special projects operation (handling a New York advertising agency) that, at a cost of \$1.3 million, created centralized campaign materials center that designed, ordered, warehoused, supplied, and controlled all the major items utilized. A catalogue was prepared for use throughout the country, and special kits were prepared for service rallies with custom-packaged materials. The following items and costs show the needs in a modern presidential campaign and show how little has changed through the years:

100 buttons.....	\$300,000
1 bumper strips.....	300,000
1 balloons.....	70,000
1 posters and placards.....	70,000
1 raw skimmers.....	30,000
1 brochures, speeches, and position papers.....	500,000
1 paper dresses.....	40,000
1 jewelry.....	50,000

political participation brought year-round campaigning requiring better organization. The national nominating conventions appeared in the mid 1800s. The Democratic National Committee was organized in 1852. These additional expenses in rent, furniture, equipment, stationery, supplies, workers and professional staff. In some areas, political machines developing what was then described as "oceans of money."

varieties of campaigning arrived in the 1920's. Radio was first used in campaign. The Republicans opened their own stations in their campaign headquarters and broadcast every day from October 21 until Election Day, spending a total of \$120,000 for air time (one-third the amount they spent on either pamphlets or speakers). The Democrats spent only \$40,000 for radio. Radio and television costs (or time) for 1924 to 1968 are estimated as follows:

RADIO EXPENDITURES (OR TIME), PRESIDENTIAL GENERAL ELECTION CAMPAIGNS 1928-48, BY PARTY

	Republicans	Democrats
1928.....	\$120,000	\$50,000
1932.....	\$435,000	\$650,000
1936.....	73	51½
1940.....	97½	70
1944.....	\$500,000	\$500,000
1948.....	\$700,000	\$700,000
1952.....	\$500,000	\$600,000-\$700,000

1 total, with the Republicans spending more than half, and Socialist spending included.

TABLE 2.—TELEVISION AND RADIO EXPENDITURES, PRESIDENTIAL GENERAL ELECTION CAMPAIGNS, 1952-68, BY PARTY

Year	Republicans	Democrats
1952	\$2,048,000	\$1,520,000
1956	2,888,000	1,765,000
1960	1,865,000	1,142,000
1964	6,379,000	4,674,000
1968	12,988,000	6,148,000

In 1948, Harry Truman's Labor Day radio broadcast cost \$18,000. During the campaign, Truman was cut off the air in the middle of one of his speeches, what was a dramatic example of the lack of funds available and the high cost of radio.

By 1952, television came into wide use and costs were much greater. When Adlai Stevenson was told that one television speech would cost \$60,000, he complained "Now every time I start to put a word on paper, I'll wonder whether it's an expensive ten-dollar word, or a little, unimportant word like 'is' and' that costs only \$1.75." Abraham Lincoln's successful campaign in 1860 cost \$100,000; that much was spent for a single half-hour of television air-time in 1960. From 1956 to 1968, radio costs in presidential campaigns increased 406 percent and television costs increased 406 percent.

In 1960, in addition to the expenditures by the Republicans and Democrats, the broadcasting industry provided free time to the major party candidates for the so-called Great Debates—the series of four joint broadcasts in which John F. Kennedy and Richard M. Nixon participated. Broadcasters claimed the free time thus provided—under a temporary suspension of Section 315, the "equal time" provision, enacted by the Congress—cost them on the order of \$2 million. Despite the free time, however, broadcast expenditures by the presidential campaigns hardly declined from the 1956 level.

Radio debates had first been proposed in 1924, and the first broadcast resembling a debate took place in 1936. In that year, CBS presented President Roosevelt and Arthur Vandenberg (who was not the presidential candidate) in what was called a debate. Vandenberg, representing the Republicans, was presented live, while President Roosevelt's "replies" were spliced in from recordings.

The high cost of broadcast time today, and the wide use of spot announcements, is prompting numerous proposals to remedy what is considered by many to be an unhealthy condition. Least modernists believe their proposals are original it is well to remember that in 1924, officials of RCA proposed that radio campaign speeches be limited to one hour a day, and individual speeches to fifteen minutes each—because they were considered so dull.

Costs increase, techniques change, but political campaigning is still considered dull by many. The desire to reach the uninterested is one of the prime reasons for spending so much money in campaigns. In addition to all the campaign materials which have been used since the beginning of presidential campaigning other forms have come into use without displacing the older methods. Billboards, radio, and television simply joined brochures, buttons, and pictures of the candidates as "necessary campaign items." Since it is impossible to tell which expenditures are really necessary to win an election and which can be eliminated everything is tried and little is discarded.

The first nationwide political advertising campaign was conducted by Alben Lasker in 1920. In 1968, the agency fees alone (excluding all production and time and space costs) for the Democrats came to \$378,000. While there is no comparable figure available for the Republicans, it can be estimated that their agency fees were close to twice as high as the Democrats', since the total advertising expenditures for the Republicans were almost twice those of the Democrats.

The costs of all advertising today comprise about one-half of the total cost of a presidential campaign. The percentage tends to be higher when total costs are lower, indicating that advertising is one of the items least likely to be cut. In 1968, Nixon's \$24.9 million campaign spent almost 50 per cent of the total (\$12.3 million) for advertising; Humphrey's financially-starved campaign had to spend 61 per cent (\$6.8 million) of its \$10.3 million total for advertising.

The Democrats would have liked to spend more; as it was, two weeks of spot television and 25 per cent of network television had to be cancelled for lack of funds.

The Humphrey general election campaign made the most detailed disclosure of advertising expenses ever revealed, as shown in the following comparison of Humphrey and Nixon advertising costs:

TABLE 1.—1968 NATIONAL-LEVEL PRESIDENTIAL GENERAL ELECTION ADVERTISING EXPENDITURES

	Humphrey	Nixon
<b>Media production</b> .....	\$1,060,000	\$1,380,000
Radio and TV.....	1,043,000	
Newspapers.....	62,000	
Refund.....	(-45,000)	
<b>Time and space</b> .....	4,229,000	9,020,000
<b>TV</b> .....		
Network.....	2,151,000	6,270,000
Spot.....	1,374,000	
<b>Radio</b> .....		
Network.....	123,000	
Spot.....	302,000	1,370,000
Newspapers.....	429,000	880,000
Refund.....	(-150,000)	
<b>Agency Fees</b> .....	378,000	
<b>Refund</b> .....	(-125,000)	
<b>Other</b> .....	762,000	1,300,000
<b>Total</b> .....	6,304,000	12,300,000

The special campaign train used by the Democratic presidential candidate in 1920 was said to have cost \$30,000. In 1956, a five-car campaign train cost a thousand dollars a day plus full fare for each passenger. Campaign trains receded in importance with the advent of campaign planes—especially jets. One of Nixon's boast in the 1960 campaign was that he had visited all of the fifty states. When John F. Kennedy traveled in that campaign, his chartered airplane required not only a crew, but other staff, such as radio operators, to keep in touch with campaign headquarters. A speech professor was along to teach the candidate voice control; a psychologist to evaluate the size, composition, and reactions of campaign crowds; an official photographer; and a two-man stenographic team to catch and transcribe every public word of the candidate, so that accurate transcripts were available to reporters within minutes after a speech.

Candidates wear themselves and their money supply down in the effort to be seen in as many places as possible, by as many people as possible. Dean Burch, campaign manager for Barry Goldwater in 1964, wrote in a *Saturday Evening Post* article after the election: "It is idiotic to think that any but the fondest supporters would drive miles to a remote, noisy airport to hear a few fragments of a speech." That a candidate can be seen by more people in one television speech than he can in a month of travel falls to stop him, however. In 1968, Nixon spent \$1,945,000 and Humphrey spent \$876,000 for their travels in quest of votes, part of the enormous jump in costs from the days of horseback campaigning.

In addition, money has always been spent in campaigns for less virtuous and defensible purposes than publicity, travel, and other visible expenses. As early as 1838 in New York City, Whigs and Democrats are said to have imported repeaters—repeat voters—from Philadelphia at thirty dollars a head. Tammany identified its men by ink marks on their ears, and Whigs wore pins on their sleeves, so that they would not be challenged by their own watchers.

By the time of Grant's Administration, American politics had entered the era of scandal—of lobbyists haunting the halls of Congress, of senators bought by the highest bidder, of big city bosses, of flagrant payoffs to voters at the polls, of government officials who used their office to enrich themselves.

In 1868, the suggestion was seriously made by a man named B. W. Latham that the entire press corps in Washington could be bought to favor the Democrats for a price of \$3,500 per month. The Republicans were also willing to discuss business with the press corps, but felt that payment should be made contingent upon a Grant victory. According to Mr. Latham, this did not suit the newsmen, who felt they should be paid regardless of who won. The deal was never made.

In 1876, as soon as it became clear that the election between Hayes and Tilden had no clear-cut result, agents of both parties headed South, well supplied with money, to see what could be done with the election boards in the states of South Carolina, Florida, and Louisiana. Zachariah Chandler, manager of the campaign for Hayes, is said to have spent the month of November sending coded telegrams from the South to Washington, asking for more and more money to pay off electors and for promises of federal jobs. Smith Weed, one of Tilden's campaign managers, reported that he could buy three of South Carolina's electors for \$80,000; another said that a decision of the Florida board could be had for \$200,000, with the governorship of the state thrown in; in Louisiana the price offered Tilden was reported to be \$1,000,000 for a certificate of election. Tight-fisted Tilden refused in all cases to spend the money, and while the eventual outcome was not decided on this basis, certainly corruption did play a part when the Electoral Commission chose Hayes as President.

In 1894, the Republicans were accused of using the Pension Bureau to reach Union veterans and potential Republican voters. From September until November, the head of the Bureau, Colonel W. W. Dudley, traveled on his government salary of \$5,000 a year while gathering in the voters. Allan Nevins says that official figures of the Pension Bureau show that the sum paid for the field expenses—not the salaries—of special pension examiners in the first four months of 1894 had averaged \$28,250 monthly. But in September and October the field force was increased by fifty per cent, and the expenditures rose to an average of nearly \$40,000 monthly.

After Benjamin Harrison was elected in 1888, he attributed his victory to Providence. Matthew Quay, the Pennsylvania politician disagreed, saying "He ought to know that Providence hadn't a damn thing to do with it." He may have been referring to the "floaters" circulated in Indiana. During the last week of the election campaign, a Democratic mailman working for the Ohio and Mississippi Railroad became curious about the number of letters which were being sent to Indiana addresses by the Republican National Committee. He opened one, and found that it contained, on the stationery of the National Committee, a letter written by W. W. Dudley—he of the Pension Bureau scandal, and now Treasurer of the National Committee—referring to the twenty thousand "floaters" in the state, men whose votes could be bought by the application of cold cash. Dudley told his men to divide the floaters into blocks of five and to put a trusted man, "with necessary funds" in charge of each block. The Republicans were to give out three five-dollar gold pieces or one twenty-dollar bill for each vote, an increase from the earlier five-dollar price in Indiana.

In spite of the scandal surrounding the Dudley letter, Indiana went Republican by 2,300 votes. Allan Nevins feels that the final factor in Cleveland's defeat in 1888 was the use of bribery in New York and Indiana.

In the summer of 1892, a Miss Anna Dickinson sued the Republican National Committee for \$1,250, claiming that the money had been promised to her for making speeches in behalf of Harrison in Pennsylvania in the 1888 campaign. The judge who ruled on the case, a Judge Truax, said that Miss Dickinson lost her case on a technicality there were, he claimed, only two valid election expenses: printing and hiring carriages to carry invalid voters to the polls. Some politicians could have told the judge of other expenses involved.

Little of a systematic nature is known of the total costs of presidential campaigns prior to 1860. From then until 1912, figures in series are available but are at best estimates. The accompanying Table 4 covers expenditures by all national-level committees supporting major presidential candidates in the general elections, but does not include expenditures by the candidates themselves. In the earlier years, this meant only the national committees of the parties. In the twentieth century, it came to mean more committees—citizens' and ad hoc—also operating at the national level. After 1940, when the Hatch Act limitation of \$3 million on the expenditures of a single committee and the \$5,000 limitation on individual contributions became operative, national-level committees proliferated in presidential campaigns. In 1968, for example, there were about eighty national-level campaign committees in the Humphrey-Muskie campaign,



TABLE 4.—COSTS OF PRESIDENTIAL GENERAL ELECTIONS, 1860-1968

Republican	Democratic	Year	Republican	Democratic
.....	\$100,000	.....	\$50,000	.....
.....	125,000	.....	50,000	.....
.....	150,000	.....	75,000	.....
.....	250,000	.....	50,000	.....
.....	950,000	.....	900,000	.....
.....	1,100,000	.....	355,000	.....
.....	1,300,000	.....	1,400,000	.....
.....	1,350,000	.....	855,000	.....
.....	1,700,000	.....	2,350,000	.....
.....	3,350,000	.....	675,000	.....
.....	3,000,000	.....	425,000	.....
.....	2,096,000	.....	700,000	.....
.....	1,655,518	.....	629,341	.....
.....	1,071,549	.....	1,134,848	.....
.....	.....	1916	\$2,441,565	\$2,284,580
.....	.....	1920	5,417,501	1,470,371
.....	.....	1924	4,020,478	1,108,836
.....	.....	1928	6,296,111	5,342,350
.....	.....	1932	2,900,052	2,245,975
.....	.....	1936	8,892,972	5,194,741
.....	.....	1940	3,451,310	2,783,654
.....	.....	1944	2,828,652	2,189,077
.....	.....	1948	2,127,296	2,736,334
.....	.....	1952	6,608,623	5,032,926
.....	.....	1956	7,778,702	5,106,651
.....	.....	1960	10,128,000	9,797,000
.....	.....	1964	16,028,000	8,757,000
.....	.....	1968	25,402,000	11,584,000

use the figures since 1912 are relatively reliable, the cost per vote can be  
 ited with some confidence. Between 1912 and 1952 the nation's voting popu-  
 expanded from fifteen million to sixty-two million, and the value of the  
 shrank; yet in both years the cost-per-vote was 19 cents. Of course, there  
 wide variations in that forty-year period—from a low of 10.5 cents per vote  
 \$ to a high of almost thirty-two cents per vote in 1928—but after each rise  
 it always bounced down again. Since 1952, however, the cost has been rising  
 ly. In 1966 the cost-per-vote rose only two cents, to twenty-one cents; in  
 was up to twenty-nine cents, and in 1964 the cost-per-vote set a new record  
 ty-five cents. But for 1968, the cost almost doubled again, to sixty cents per  
 (If George Wallace's expenditures are excluded, the cost-per-vote is still a  
 fifty-one cents.) While 1968 may have been a very unusual year, costs in  
 are not likely to decline significantly.

r the crushing GOP defeat in 1964, Republican moderates called for and got  
 st verified national audit of known campaign funds in a presidential elec-  
 behind the cold print of the audit of Republican committee books, prepared  
 recognized accounting firm, are the color and exigencies of a modern presi-  
 l campaign battle, as shown in table 5.

not difficult to account for the rise in presidential campaign outlays in  
 years. There is no single reason but there are several clues, some obvious  
 me less so. The advent of television, with its high costs, is of course a prime

The rise of public opinion polls, and advances in air travel, as noted, are  
 ore reasons for sharply increased costs. All the other items in Table 5 illus-  
 hat modern campaigning has indeed come a long way since the early days  
 Republic.

as obvious reason for the rising costs lies in the increasing importance of the  
 il Government and its executive head in the national life. The President  
 me to be viewed more and more as the chief promulgator of both foreign  
 nestic policies. These policies are perceived as affecting directly more and  
 itizens. As the President's role has changed, the stakes increase and more  
 dollars naturally focus on his election.

more difficult to make a judgment on the "pocketbook differences" between  
 licans and Democrats. The Democratic split in 1860 and the war successes  
 gave Lincoln an advantage which probably could not have been overcome  
 f the Democrats had spent as much as the Republicans. Grant's war-hero  
 in 1868 and 1872 also probably made him unbeatable regardless of Demo-  
 spending. The elections between 1876 and 1896 were close, and any factor  
 have shifted the balance: "They [party managers] shoveled money into  
 ul areas in a mood of panic."

ing the twentieth century, the Republicans have consistently had more  
 at their disposal, even when one combines labor with Democratic spending.  
 un the 1930's through the 1960's the Democrats have been the majority party  
 country. And their victory ratio does not vary directly with amounts spent.

In 1936 the Republican party, in conjunction with the Liberty League (was organization then active), spent \$9.4 million compared to the \$6 million spent the Democratic National Committee combined with Roosevelt non-party committees. With this 3-to-2 Republican advantage, the Democrats won the election in all but two states. It is doubtful that in 1964 any greater amount of Republican spending—which was almost twice as high as the Democratic spending—would have changed the outcome.

TABLE 5. *Republican Presidential Campaign: Cost by Expense Classification 1964*

Salaries .....	\$1, 586
Taxes .....	53
Rent .....	176
Insurance and Bonds .....	6
Advertising—Printing .....	526
Outdoor Productions .....	102
Building Maintenance .....	74
Contributions to Committees .....	43
Employee Retirement .....	71
Executive Expenses .....	4
Furniture & Equipment—Purchase .....	60
Furniture & Equipment—Rental and Maintenance .....	76
Meetings and Conferences .....	62
Miscellaneous Expenses .....	73
Motion Pictures .....	126
National Committee Fellowship .....	6
News Services .....	37
Typographic Services .....	96
Postage & Express .....	655
Printing & Reproduction .....	555
Professional Services .....	357
Promotional & Campaign Supplies .....	386
TV & Radio—Production .....	1, 066
TV & Radio—Time .....	4, 542
Clerical Services .....	75
Surveys and Polls .....	165
Subscriptions & Publications .....	7
Supplies .....	332
Telephone .....	386
Telegraph .....	86
Travel Expenses .....	906
Air/Rail Charter .....	807
Mailing Lists .....	274
Mailing Services .....	141
Data Processing .....	156
Automobile Maintenance .....	1
Security .....	16
<b>Total .....</b>	<b>14, 416</b>

In close elections, as in 1960 and 1968, a small amount of additional spending may make the difference. In 1960, the narrowly victorious Democrats had \$8.8 million into debt in order to spend almost as much as the Republicans (raised almost all they spent.) The disparity between the Republican and Democrats in 1968 was as marked as it had been four years earlier, but in 1968 the imbalance had not harmed the Democratic campaign. In 1968 the Democrats could not mount a campaign on the contributions received; they borrowed money from at least 43 individuals and incurred other debts totalling \$6 million in order to try to compete.

One can argue that the furnishing of manpower—as labor unions do so well—may be more significant than the furnishing of money. Spending is only one aspect of the broader issue of access to the electorate through the communications media. Sympathy on the part of those controlling the mass media, or those possessing the skills for reaching the electorate, can play a significant part in the battle for men's votes, too.

Thus cash is only one factor among many variables contributing to the electoral result. The predisposition of the voters, the constellation of issues, group support, the advantages of being "In" and the handicap of being "Out," voters' perception of the ability to win in order to carry out programs (not waste votes), are always related and at times more crucial than disbursement of cash. Of course, some variables, such as the predisposition of voters and the images of candidates, have been made what they are partly by spending to create and exploit them.

### 3. HOW THE MONEY IS RAISED

If cash is only one variable, it is a resource rarely easy to get. The problem of where the money is to come from has been with us as long as candidates have tried to induce voters to vote for them. In the early days, collections from candidates and assessments upon officeholders were sufficient to finance campaigns. Yet the system was expensive for those who participated and only a few could afford to run for office; the salary was low, there was entertaining to do, and there were other demands upon personal funds. Thomas Jefferson was almost insolvent when his last term of office as President ended.

But the money raised by collections from candidates and officeholder assessments was not enough. By the 1830's, regular assessments were being levied on the United States employees in the New York Custom House, and it was observed that those who refused to pay lost favor.

Andrew Jackson is generally credited with bringing in the "spoils system," rewarding in favors and government jobs men who contributed to further their financial interests and careers. The pay-off, of course, included favorable government policies as well as jobs and contracts.

When August Belmont, the American representative of the House of Rothschild, set up the Democratic National Committee in 1852, he did so for the purpose of raising funds for the party's presidential candidate, Franklin Pierce. His solicitations were apparently not too successful, for it is reported that "at the opportune moment Belmont stepped in and contributed a large sum to the National Committee. Thus the matter of funds was taken care of." He would not be the last chairman to contribute from his own pocket.

In 1860, ten of Lincoln's friends pledged a minimum of \$500 each to take care of his campaign expenses. The \$5,000 thus raised was 5 percent of the total amount that the Republicans are believed to have spent in that campaign. Stephen A. Douglas, running on the Democratic ticket, had almost no money. Belmont organized a finance committee, kicked it off by contributing \$1,000 himself, and then turned to the New York Central Railroad for \$100,000. The railroad men, fearful of offending southern sympathizers, refused to contribute. Frantic appeals for money were made: each congressional district was asked to contribute \$100 for the cause, but almost nothing came in. Wealthy interests in the North did not intend to aid a candidate who was hated in half the South. Douglas ended the campaign with a personal debt of \$80,000. One of Lincoln's friends wrote a revealing letter at this time concluding: "Men work better with money in hand. . . . I believe in God's Providence in this Election, but at the same time we should keep our powder dry."

In 1864, Gideon Welles wrote in his Diary,

"Judge Edmunds and Senator Lane called on me on Monday morning for funds. Showed me two papers, one with Seward's name for \$500. On another was Blair's (Postmaster-General) and Secretary Usher, each for \$500, with some other names for like amounts. Told them I disapproved of these levies of men in office. . . . Something should, perhaps, be contributed by men when great principles are involved, but these large individual subscriptions are not in all respects right or proper. Much of the money is wasted or absorbed by the electioneers."

Others must not have shared that sentiment, for a letter written by Republican National Committee Chairman E. D. Morgan to Welles said: "It rained hard last night, and yet I succeeded in getting 38 to 40 pretty good men, and got subscribed \$8,000. If it had been pleasant, we would have got from \$12,000 to \$15,000, which we will get, but with more effort."

(The term "war chest" was used to refer to political money throughout the nineteenth century. "Campaign fund" was not used at all until after the Civil War.)

From the Civil War on, the great corporations and those who amassed fortunes from American industry paid a major share of campaign costs. Grant is said to have entered office, in 1869, more heavily mortgaged to wealth through

campaign contributions than any candidate before him. Much of the \$200,000 which his campaign cost came from men such as Commodore Vanderbilt, the Astors, and Jay Cooke. These sources represented the railroad and land-grant interests, which along with major corporations, supplied most of the Republican money. The Democrats attracted funds from some of the established interests, such as that represented by one H. T. Helmhold, a manufacturer of patent medicines, who was the chief Democratic contributor in 1868. However, the Democrats, then as later, had only a small share of the wealthy—men such as August Belmont, Cyrus H. McCormick, Samuel J. Tilden—and were relatively disadvantaged.

Throughout the 1860's and 1870's, Jay Cooke held intimate fund-raising dinners in Washington for the benefit of the Republican party. In 1864, Cooke supported Salmon P. Chase before Lincoln was renominated and then gave a thousand dollars to Lincoln. He contributed \$20,000 to the campaign of 1868 and in 1872 increased his contribution to \$50,000.

It was accepted that businessmen should support the political party which most clearly favored their interests. "Frying the fat" was a phrase used to describe the means of acquiring campaign contributions from the manufacturers in Pennsylvania.

The Democrats attempted to raise money in the same way. In 1868, eight Democrats (including August Belmont who was still chairman of the Democratic National Committee) signed a business contract with the treasurer of the party in which they agreed to give \$10,000 each "to defray the just and lawful expenses of circulating documents and newspapers, perfecting organization, etc., to promote the election of Seymour and Blair."

When, in 1876, the Democrats nominated Samuel J. Tilden, who was a millionaire—said by some to be worth as much as \$10 million—cartoonist Thomas Nast showed him supporting the Democratic campaign chest out of his own "barrel." Tilden was notoriously tight-fisted, and not interested in spending much of his own money. He may finally have lost the election because he was unwilling to spend enough.

Garfield, in 1880, appealed to his managers to assess government employees for the money he would need, but that was the last election in which that source could be legally tapped. Reformers had launched a concerted attack on this system, and the Civil Service Reform Act of 1883 protected federal workers against the demands of the parties for tribute money. Still, high-ranking officials, especially in exempt classifications, are sometimes expected to this day to buy tickets to expensive fund-raising affairs.

In 1888, John Wanamaker was asked to be chairman of the Republican National Committee. He agreed, "provided the National Committee would agree to the creation of an advisory board made up of business men, with its own treasurer, and given unrestricted power in raising and deciding upon the expenditure of funds."

Writing of the 1888 campaign, Herbert Croly described the tariff as the leading issue, and then stated:

"The protected industries defended themselves with their natural weapons. They subscribed more liberally than ever before to the Republican electoral expenses. In 1888, more money was raised than in any previous national campaign, and it was raised more largely from businessmen. Its ability to obtain increased supplies from such sources was a Godsend to the machine, because the spread of the movement toward Civil Service Reform had diminished its collection from officeholders, while at the same time the constant increase of political professionalism was making electoral campaigns more than ever expensive. Large expenditures for political purposes thereafter became the rule; and the needs of professional politicians, like other parasites, soon increased up to the level of their means of subsistence."

The system found its genius in Mark Hanna. He rose from wholesale grocer in Cleveland, Ohio, to a maker of Presidents, because of his ability to raise funds for the Republican party. In 1888, he raised more money than the Republican National Committee could spend; he returned the money to the donors on a pro rata basis.

Hanna believed there were few things that could not be bought with money. His battle to secure the Republican for McKinley in 1896 is said to have cost \$100,000. Hanna was named chairman of the Republican National Committee that year, and proceeded to organize a campaign to elect McKinley as a campaign

had never been organized before. James J. Hill, well-known on Wall Street (which Hanna was not), took him to meet the men of the East who could contribute the most to McKinley's campaign. Contributions were determined by ability to pay—as in any business. Banks were assessed at one-quarter of 1 per cent of their capital. Life-insurance companies contributed. Standard Oil gave \$250,000 in 1896; \$250,000 in 1900 (of which McKinley returned \$50,000, because he felt they had paid more than their fair share), and \$100,000 in 1904, which Roosevelt told his campaign manager to reject.

Herbert Croly, Hanna's biographer, says "Mr. Hanna always did his best to convert the practice from a matter of political begging on the one side and donating on the other, into a matter of systematic assessment according to the means of the individual and institution."

Hanna tried to make it clear that there were to be no direct favors in return for a campaign contribution; McKinley wanted to remain clean. In 1900, Hanna returned a \$10,000 contribution to a firm of Wall Street bankers who he felt were making a specific demand.

Perhaps the Republican would not have had such easy access to large funds if the business community had not considered the stakes at issue so large. The issue of free silver threatened the existing economic policies of the United States—and William Jennings Bryan and the people around him struck fear in many a Republican heart. These campaigns pitted the rich against the poor, the eastern establishment against the farmers in the West.

Bryan never had access to funds in amounts which the Republican had. In 1896, he attempted to match the Republican campaign with a war-chest of only \$875,000, only about 20 per cent of the Republican war-chest. Some of the rich Democrats who had supported the party in previous elections, men like William C. Whitney, became "Gold Democrats," and gave their support, and money, to McKinley. Most of the contributions Bryan did receive came from a group of wealthy silver-mine owners.

Of the \$3.5 million which the Republican campaign of 1896 is said by Herbert Croly to have cost, about \$3 million was said to have come from New York and vicinity, and the rest from Chicago. Harold L. Ickes, who worked in that election for McKinley, said "I have never doubted that if the Democrats had been able to raise enough money, even for legitimate purposes, Bryan would have been elected."

The Hanna fund-raising system worked as well in 1900 as it had in 1896. The presidential candidates were the same, the issues were similar, McKinley again stayed home, and Bryan again toured the country, this time followed by Theodore Roosevelt, the Republican vice-presidential candidate, who acted as a one-man truth squad.

Theodore Roosevelt had been given the vice-presidential nomination because it was considered a good way to keep him quiet; he succeeded to the Presidency upon the death of McKinley in 1901. For his campaign in 1904, he sought funds from two of the country's richest men, E. H. Harriman and Henry C. Frick, and turned down the suggestion of Lincoln Steffens that he depend on small gifts of from one to five dollars. According to one account, Frick later reported: "He got down on his knees. We bought the son of a bitch and then he did not stay bought." If Roosevelt was aware of the gigantic corporate and private gifts to his campaign, he showed little appreciation for the hand that had fed him as he began to attack the trusts. The men he attacked were the men who contributed to his campaign: Chauncey M. Depew, H. C. Frick, George J. Gould, G. H. Harriman, C. S. Mellon, J. P. Morgan, and H. H. Rogers of Standard Oil. Harriman raised \$250,000 for the Republicans with, he believed, the understanding from Roosevelt that Chauncey Depew would be appointed ambassador to France after the election. When Roosevelt did not appoint him, Harriman refused to contribute to the Republican congressional candidates in 1906.

Even in 1904, big business, recalling free silver and Bryan, hesitated to support the conservative Democratic candidacy of Alton B. Parker. As a vice-president of the Mutual Life Insurance Company put it in explaining why his company supported the Republican party, "We rather feared that snake of free-silver no matter whether it bore the head of Bryan or Parker, and we thought it our duty to scotch it." But the Democrats managed. Louise Overacker estimates that most of their money that year must have come from two sources—August Belmont and Thomas Fortune Ryan. Belmont supposedly gave \$250,000 and Ryan a total of \$450,000, including \$350,000 which he gave to wipe out the deficit existing at the ending of the campaign.

The recognition of the need to be under no obligation to special interests had been a long time in developing, although as early as 1878, in a speech at the University of Wisconsin, Chief Justice Ryan of the United States said "The question will arise . . . 'which shall rule—wealth or man, which shall lead—money or intellect; who shall fill public stations—educated and patriotic free men, or the feudal serfs of corporate capital.'" Charles P. Taft, the brother of William Howard Taft, contributed \$100,000 to his brother's 1908 campaign and \$150,000 in 1912, with the explanation that he did not want his brother to have to go begging to the large corporations, or to be under obligation to anyone when he entered the White House. In 1907, Roosevelt had proposed to Congress several ideas to improve the political finance system. One proposal, to prohibit corporate contributions to federal campaigns, was adopted that year and remains the law today.

If corporations could no longer directly contribute, individuals still could and T. F. Ryan continued to be a big contributor to the Democrats. He is estimated to have given \$77,000 to Judson Harmon and \$35,000 to Oscar W. Underwood in 1912 for pre-convention spending. But Woodrow Wilson refused to accept any contribution from him. We wrote Henry Morgenthau, the chairman of the Democratic Finance Committee:

"I shall insist that no contributions whatever be even indirectly accepted from any corporation. I want especial attention paid to small contributors, and I want great care exercised over the way the money is spent . . . one thing more. There are three rich men in the Democratic Party whose political affiliations are so unworthy that I shall depend on you personally to see that none of their money is used in my campaign."

The three men were Belmont, Morgan, and Ryan.

In the 1920's, Ryan's money again became acceptable, and it is recorded that he gave \$75,000 between January, 1925 and the 1928 convention to help pay off Democratic debts. For the 1928 campaign, he contributed a total of \$110,000. But this was less than the amounts given by four other individuals to Alfred E. Smith's campaign and its deficit: John J. Raskob, Smith's campaign manager and chairman of the Democratic National Committee, gave \$360,000; William F. Kenny gave \$275,000; Herbert H. Lehman, \$260,000; and M. J. Meehan, \$150,000. To put these gifts in perspective, Raskob, Kenny, and Lehman each gave more to Smith in 1928 than Standard Oil gave to the Republicans in either 1904 or 1908.

In 1932, Franklin D. Roosevelt had trouble raising money; several times during the campaign the headquarters had no money at all. The conservative Democrats were alienated and would not contribute. Although specific amounts are not known, the large contributors to Roosevelt's campaign included Bernard Baruch (the largest), William Woodin, Vincent Astor, John J. Raskob, William Randolph Hearst, James W. Gerard, Joseph P. Kennedy, James M. Curley, and Pierre duPont.

Edward J. Flynn reports that after the 1932 presidential election a small, informal committee of those close to President-elect Franklin D. Roosevelt was formed to consider federal appointments for some of those whom Flynn called the thirty-four original "investors" in Roosevelt's campaign. This group became known as "FRBC"—"For Roosevelt Before Chicago" (site of the 1932 Democratic nominating convention). Said Flynn: "There was a more or less tacit understanding between the President-nominate and us that whenever possible they should be taken care of."

Such incidents support the legend of "fat cat" contributors buying their way into government posts. Candidates sometimes lay down general rules for fund raisers, which those operatives may observe or overlook. Nearly fifty years after Woodrow Wilson warned his finance chairman against the three rich men whose political affiliations were so unworthy, John F. Kennedy in 1960 personally ordered that all important campaign contributors be specifically warned that no commitment, for jobs or otherwise, was involved in accepting their checks.

One public statement Kennedy made was: "On this matter of experience, I had announced earlier this year that if successful I would not consider campaign contributions as a substitute for experience in appointing Ambassadors. Ever since I made that statement, I have not received one single cent from my father."

Other candidates have refused to accept certain contributions: the fact that they did not only speaks well for the candidates, but also is evidence enough that some contributions were being offered with strings attached.

Major contributors have not accounted for a large number of major appointments in recent years. Of 253 major appointments made by President Kennedy through mid-1961, thirty-five, or 14 per cent, were found to have contributed at least five hundred dollars or more in the 1960 campaign, and a few had actually given to the Republicans. Under President Johnson, only twenty-four of 187, or about 13 per cent of major appointees through September, 1965, had given five hundred dollars or more in the 1964 campaign.

In the course of the expensive and intense 1936 campaign (which was the most costly to that time and was not topped in cost until 1960), two new fund-raising techniques appeared. Both were invented by the Democrats, and both quickly became staples of both parties' fund raising.

The first aimed at corporations, which were legally barred from making direct political contributions. At their national nominating convention, the Democrats produced a "Book of the Democratic Convention of 1936": it contained pictures of the Democratic leaders, articles about various branches of the national government written by party figures, and other information. Advertising space in the book was sold to national corporations. The book was sold in various editions, ranging in price from \$2.50 to a \$100 deluxe edition which was bound in leather and autographed by the President. Sale of the book and advertising revenue from it raised \$250,000 for the campaign. Convention program books became more and more elaborate, and the advertising rates went up accordingly, but after 1936 the money was used to pay for convention costs, not campaign costs.

The other 1936 fund-raising invention is credited to Matthew McCloskey, a Philadelphia contractor, who held the first \$100-a-plate dinner. Like the program books, the dinner idea spread quickly and widely. By the late 1960's, \$100-a-plate dinners, luncheons, breakfasts, and brunches were common at all levels of the political system, and \$500-a-plate and \$1,000-a-plate affairs were in evidence for more prestigious events. In 1968, Nixon held just one fund-raising dinner during his presidential campaign, but twenty-two cities were linked by closed-circuit television for that one event. The dinner grossed \$6 million; the net profit of \$4.6 million was close to one-fifth the total cost of the campaign. That was surely the most productive dinner in American political history.

In 1936, too, labor union funds became significant in politics, invariably providing an important resource to the Democratic cause. Unions were not important political contributors in the early years of their organization. Between 1906 and 1925, the American Federation of Labor raised a total of about \$95,000 for political purposes. During this time the funds were used only for postage, leaflets, and speakers, and were not contributed directly to candidates.

In 1936, however, the unions are estimated to have contributed \$770,000 to aid Roosevelt's reelection. The biggest contributor was the United Mine Workers, which gave \$469,000. John L. Lewis, president of the U.M.W. and head of the Committee for Industrial Organization, wanted to show up at the White House during the campaign with a check for \$150,000 and a photographer, but Roosevelt vetoed this plan.

The Smith-Connally Act of 1944 limited union contributions and resulted in the CIO setting up its Political Action Committee. In that year the PAC reported raising \$1,406,120 and spending \$1,327,775. That was the campaign in which the Republicans charged that everything the Democrats did had to be "cleared with Sidney"—referring to Sidney Hillman, head of the CIO.

In 1948, most union money went to senatorial and congressional candidates, since the unions, along with most others, did not expect Truman to win the election. Since the Taft-Hartley Act of 1947 had prohibited direct contributions by unions in federal elections, money was solicited by voluntary contributions from union members. Ever since, most national-level union money has gone to senatorial and congressional campaigns, but various kinds of labor assistance has gone to the presidential campaigns in the form of endorsements, manpower, activation of the rank-and-file, registration, and Election Day activities.

Since 1940, the law has limited political gifts to \$5,000 for any one federal candidate or committee, but large amounts can still be contributed by spreading many \$5,000 gifts to numerous candidates or to various committees for one candidate. One reason for the enactment was the amount of money that wealthy families were contributing to political campaigns. For example, the duPont family provides an interesting history of contributing over the years. Recorded contributions from the family go back as far as Millard Fillmore's time. A United States senator from Delaware, writing to the Attorney General in Fillmore's Cabinet, said "these duPonts have spent a fortune for the Whig Party, and have never received a favor from it, for they never desired any,—they have been the chief prop and support of our party ever since its origin." The earliest information on the amount of these contributions is for 1916, when Coleman duPont gave \$10,000 to the Republicans. In 1928, the family divided its political contributions, Pierre gave \$50,000 to the Democrats (he also gave to FDR in 1932) and Alfred gave \$25,000 to the Republicans.

In the intense 1936 campaign, the duPonts gave \$500,000 to the Republicans, the largest known political contribution from the family. Despite the new law, the duPonts managed to give \$203,780 to the Republicans in 1940, but since then have been declining in aggregate contributions. The 1936 Republican campaign also received \$500,000 from the Pew family, which also matched the duPonts in 1944 with more than \$100,000. In that year, the Mellon and Rockefeller families each gave at least \$60,000.

Twelve wealthy family groups were selected for study by a Senate subcommittee investigation in 1956. The available records on their political contributions since then indicate the following:

	1956	1960	1964	1968
Republican.....	\$1,040,526	\$548,510	\$445,480	\$341,960
Democratic.....	107,109	78,850	133,500	90,200
Miscellaneous.....	6,100	22,000	24,146	15,651
Total.....	1,153,735	649,360	602,926	1,047,811

The total amounts contributed by members of these families in 1960 and 1964 was only about half as much as they had given in 1956, and increasingly. In 1960 and 1964, more money had been given to Democratic committees and candidates from these sources. But in 1968 the trend was reversed, with respect to both totals and to disparities as between the major parties.

The Gore Committee selections do not reflect certain other families recently active in politics—the Dillons, the Watsons, and others. Nor do they reflect certain new wealth active in politics—the Frawleys, the Salvatoris, and others. These latter represent relatively new sources of political money, largely originating in the Southwest, derived from oil, cattle, and real estate interests. Some of this group helped to bankroll the radical right, and some were very active in the Goldwater campaign in 1964. They helped to create means for challenging the moderate Republicanism of the eastern establishment that had controlled Republican presidential nominations at least since 1940.

In 1956, Lansdell K. Christie was on record as contributing \$70,564 to Democratic committees, mostly supporting Adlai E. Stevenson. This was only about half of what Mr. Christie gave in that year—the rest went to Stevenson's pre-nomination campaign and to other candidates. (Christie had contributed to Eisenhower's campaign in 1952, but did not find the new administration hospitable and switched to Stevenson in 1956.) In 1956, too, Mrs. Charles S. (Joan Whitney) Payson contributed \$65,050 to Republicans. Without congressional investigations as in 1956, less is known about very large contributors in 1960 or 1964. No doubt there were larger ones than the available records show—the largest being Mr. and Mrs. Harold Linder in 1964, who gave \$61,300, mainly to the Johnson campaign.



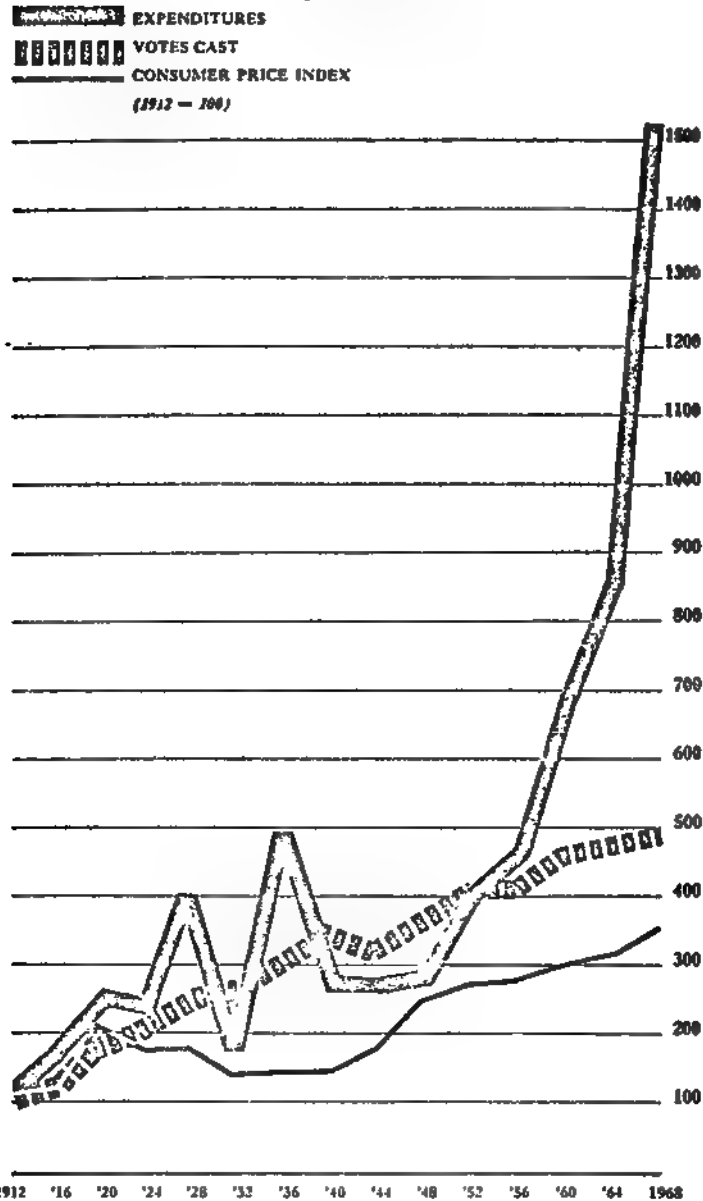
In 1968, there was much more information about large contributions on the record. In addition to very large contributors in the prenomination periods in both parties, there were many large contributors to the Nixon and Humphrey campaigns. At least fourteen individual contributors are known to have given \$50,000 or more to Republican causes, mainly to the Nixon postnomination campaign—the top one being W. Clement Stone, an insurance executive, who gave \$200,000. Fifty-seven others gave between \$25,000 and \$49,999 to the Nixon campaign, and 168 gave between \$10,000 and \$24,999.

In the Humphrey campaign, there were seven contributors of \$50,000 or over, the highest giving \$102,500. Eighteen gave between \$25,000 and \$49,999, and 105 between \$10,000 and \$24,999. Humphrey actually drew more very large contributors on the record than Johnson in 1964, Kennedy in 1960, or Stevenson in 1956. Of 93,195 Democratic gifts made in the September-December period, 240 were in amounts of \$1,000 or more; 4,059 were in amounts from \$100 to \$999; and 88,896 were for less than \$100. Television appeals for funds were responsible for a great majority of the gifts. But less than \$5 million raised from all sources for the presidential campaign greatly imperilled the Humphrey candidacy, particularly disrupting planning and commitment for the advertisement campaign.

Accordingly, the campaign had to be financed in substantial part by loans. Filed reports showed \$3,125,000 in itemized loans from forty-three persons. There were, for example, two lenders of \$240,000 each on the record. In addition, there were nineteen lenders of \$100,000; one of \$95,000; four of \$70,000; four of \$50,000; two of \$37,500; eight of \$10,000; and three of \$5,000. Some of the lenders were also substantial contributors. If some of the loans are forgiven, as is possible, and are counted as contributions, then several individuals could have given more than \$300,000 to the Humphrey campaign in the general election period alone (presumably most of these persons also gave in the prenomination period).

Whatever comments one may make on the implications of borrowing so much money for a campaign, one point is clear. The borrowed money was in similar magnitude to the amounts spent for the media campaign; without the borrowing, the campaign would not have been able to broadcast as it did, for broadcasters demand payment in advance and do not give credit. As it was, the Democrats hardly spent on all aspects of the Humphrey campaign (\$10.3 million) as much as the Republicans spent on advertising alone in the Nixon campaign (about \$12 million), while spending in all categories for the Nixon campaign reached an all-time record of \$25 million.

TABLE 6  
*Indexes of Direct Campaign Expenditures by  
 National Level Committees, Consumer Prices,  
 and Number of Votes Cast, 1912-1968*



Source: Table from *Voters' Time*, Report of the Twentieth Century Fund Commission on Campaign Costs in the Electronic Era (The Twentieth Century Fund, 1969).

But the Democratic borrowing points up the continued need for affluent supporters without which presidential campaigns are unlikely to be effectively financed. No appeals to "the little man" are likely to cover large campaign deficits. The problem has been apparent in Republican campaigns, too. Wendell Willkie's campaign registered a minus reading of \$900,000—and that from the campaign of a Wall Street lawyer dubbed "the barefoot boy from Wall Street." Barring willingness to go into debt, or inability to get goods or services without prepayment, major problems can occur in campaigns. A classic case confronted the Truman campaign in 1948. The campaign train was stranded in Oklahoma for want of funds. It would have been embarrassing for the President of the U.S. to have to hitch-hike back to Washington. Fortunately for him, the Governor of Oklahoma, Roy Turner, and a leading fund raiser, W. Elmer Harber, held a collection party in the President's private car, raising from invited Oklahomans more than enough cash to finance the rest of the trip.

Questions about the sources of political money have been raised for almost as long as there have been campaigns. Toward the close of the campaign of 1904, Alton B. Parker, the Democratic nominee, charged that the Republicans were threatening corporations with government prosecution if they did not contribute to Roosevelt's campaign. Roosevelt felt he should be careful about the source of his campaign contributions, and did ask his National Chairman, George Cortelyou, to return a \$100,000 contribution from Standard Oil, but Cortelyou retained it anyway. The Republicans, in turn, accused the Democrats of nominating Senator Henry Gameway Davis, an eighty-year-old millionaire from West Virginia as Vice-President because they were looking for a "financial angel."

After the election, ugly suspicions about the origin of the money spent in the campaign continued. Roosevelt, in messages to Congress in 1904 and 1906, recommended publicity legislation for campaign contributions. The legislation was not passed, but in the campaign of 1906 William Jennings Bryan announced that he would place a limit of \$10,000 on individual campaign contributions, that the names of all contributors over one hundred dollars be made public before October 15, and that a list of all campaign expenses would be published within thirty days after the election. He asked the Republicans to do the same. Taft agreed to give a statement of receipts and expenditures after the campaign, but would do no more.

In 1920, the Democrats had so much difficulty raising money that in September some of the party managers were said to favor closing the national headquarters and quitting their jobs. Some quota sheets, sent out by the Republicans, fell into Democratic hands and were used in an attempt to portray the Republicans as raising a tremendous "slush fund" by imposing quotas on the states. In August, James Cox, the Democratic nominee, charged that the Republicans were attempting to raise \$15 million to buy control of the government. Later he charged that the Republicans were raising a campaign chest "so stupendous as to exceed the realm of legitimate expense." He finally raised his estimate of the "corruption fund" to \$30 million. Harry M. Blair, in charge of Republican finances, issued the following reply to the Democratic charges:

"There are two comforting thoughts that come to all of us representing the treasurer's office in connection with the speech of the Democratic vice-presidential nominee, Mr. Franklin D. Roosevelt, delivered in Chicago Wednesday evening, in which he makes the ridiculous computation that the Republican campaign budget will reach \$30,000,000.

"First, we don't need anything like \$30,000,000 to elect Harding and Coolidge.

"Second, Treasurer Upham has 'let us off easier' on our money-raising job than Mr. Roosevelt did.

"But—we do need a reasonable campaign fund, and we need it now; and my advice to the men in the field is something like this:

"Harding and Coolidge have the confidence of the people; but, boys, get the money.

"The platform is sound enough to hold the weight of the Nation; but, boys, get the money.

"It takes time to organize, but we haven't any more time left; boys, get the money.

"The weather is hot; the men are on vacations; meetings are hard to get; but, boys, get the money."

In 1940, when Wendell Willkie was receiving great publicity before the Republican convention, he was accused of being the tool of Wall Street. Usher L. Burdick, a Republican representative from South Dakota asked, "Is the great Republican Party of Abraham Lincoln to be sacrificed on the utility altar by nominating Wendell Willkie for the highest office in our country? . . . I believe I am serving the best interests of the Republican Party by protesting in advance and exposing the machinations and attempts of J. P. Morgan and the other New York utility bankers in forcing Wendell Willkie on the Republican Party. Money I know, talks."

Although more and more attention has been paid in recent years to the question of whether a man needs to have great personal wealth to run for office, the problem is not new. John Quincy Adams, who was poor to begin with, was almost penniless when he left the White House, and had to mortgage his real estate to pay his debts. He returned to government service in the House of Representatives. Devotion to public service is supposed to have literally bankrupted James Monroe; the \$30,000 Congress voted him after he left office was not enough for his needs.

Historically, voters have looked with question upon men of great wealth who run for office. After Andrew Jackson, most candidates, whether rich or poor, were represented as coming from a poor background. Van Buren was attacked for alleged wealth and fancy ways in 1840, and, after his defeat by Harrison, the log-cabin tradition was stretched to include many men who did not have the good luck to be born in sufficient poverty. A campaign song about Theodore Roosevelt contained the line "His strong point is his bank account. His weak point is his head." Franklin Roosevelt, although he was far from poor, managed to make all his opponents appear as possessors and representatives of great wealth, while he represented the poor.

Woodrow Wilson was afraid to enter politics because he feared to be left in debt. He was, however, able to turn to rich friends from Princeton for his money. William Howard Taft was aided by large contributions from his brother Charles P. Taft, and Mrs. Sara Delano Roosevelt was a contributor to her son's campaigns.

Frank Freidel says, in his biography of Franklin D. Roosevelt, that one of the factors in launching Roosevelt's original career in 1910 was the expectation of the local Democrats that they were approaching a gold mine.

Throughout the 1960's, both the Kennedy and Rockefeller families were accused of "unfairly" using their substantial family wealth to further the political careers of family members. Family funds were used most lavishly in campaigns for nomination; in fact, in John F. Kennedy's general election campaign of 1960, no Kennedy family funds surfaced on the record, and the family failed to pick up the \$3.8 million deficit from that campaign. Federal law does not require public disclosure of prenomination funds, but some indication of potentials is revealed by one known series of contributions to one prenomination committee supporting Nelson Rockefeller in 1968. Mrs. Martha Baird Rockefeller, the candidate's stepmother, is known to have given at least \$1,482,626 to his campaign. This is the largest total gift to come to light in American political history.

As campaign costs soared in the 1960's, the question of wealthy candidates and sources of funds became more pressing. The obvious alternative to a limited number of contributions from wealthy individuals is a vast number of contributions from average citizens, and various attempts to tap this source have been suggested or tried over the years.

Henry Clay, in 1840, suggested that the National Whig organization be established based on the organization of the Congregational Churches in New England. He hoped eventually to have hundreds of thousands of members. Each member would contribute a penny a week—no more and no less—so that rich and poor would be on the same financial level. Clay estimated that there were 220,000 Whig voters in New York, and he said, "220,000 cents weekly will go far toward paying expenses."

Through the years, as greater and greater reliance was placed upon large contributors for political funds, and as scandal after scandal swept the country, the need was seen for greater reliance to be placed on small contributors.

William Randolph Hearst, when he asked his newspaper readers to send contributions to a fund he started for the support of William Jennings Bryan's campaign in 1896, was one of the earliest to attempt to broaden the base of campaign contributions. He agreed to match every contribution dollar for dollar, and about \$40,000 was raised this way. The Democrats tried this system

again in 1908, when they induced about one hundred leading Democratic newspapers to help them in collecting campaign funds. For a brief time, they collected as much as two or three thousand dollars a day from this source.

In 1912, Woodrow Wilson's campaign managers proposed that banks throughout the country accept contributions for all the political parties, but only a few banks in New England tried the plan. There were close to ninety thousand contributors to the Democratic campaign that year, of whom 88,229 gave less than one hundred dollars each. Even so, Link, in his biography of Wilson, says that the party would have been bankrupt in November if it had relied only on the contributions of "the people."

In 1916, the Democrats evolved the Jamieson Plan, named after W. D. Jamieson, the assistant treasurer of the Democratic National Committee. This plan aimed to make the number of contributors as large as possible, so the party could place less reliance on the big contributors. It was hoped that a million contributors would be secured by mail: more money would have been spent on postage than Bryan spent altogether in his 1896 campaign. In this way, the Democrats hoped to pay off their campaign deficit, which was \$650,000. They only managed to get about twenty thousand people to contribute to the party, and the system turned out to be very expensive, costing almost as much as it raised. The Republicans tried something similar, making anyone who contributed ten dollars a member of the party.

A great deal about fund raising was learned during the First World War in the drives to raise money for Liberty Loans and Victory Loans. In 1920, Republican National Chairman Will Hays attempted to apply this knowledge to raising money for the Republican party. Committees for raising funds were set up in each state, with a man as chairman and a woman as vice-chairman, and quotas were assigned to each committee. Hays insisted that the Republicans not accept contributions larger than a thousand dollars.

The Democrats, after disbanding the elaborate organization which Jamieson had built up for fund raising, found themselves in 1920 with no organization and little money. Woodrow Wilson contributed five hundred dollars to the party, and a "match the President" fund was set up, asking for other contributions of the same amount—hardly a small contributors plan.

In 1940, the Republicans organized Wilkie Clubs which people could join by paying twenty-five cents in dues. The money was spent on local activities by the various clubs. In 1956, the Democrats ran a Dollars for Democrats Day, in which thousands of people rang doorbells throughout the country, asking people to contribute a dollar or more to the Democratic campaign—with too little success.

Slowly but surely, however, the number of contributors to presidential campaigns has been expanding. An historic breakthrough in broadening the base of financial support was made by the Republicans in their 1964 campaign for Barry Goldwater. In all, 651,000 contributions of less than \$100 were received at the national level. These were in addition to ten thousand individual contributions to the Republican cause in the \$100 to \$999 range, and fifteen hundred of \$1,000 or more.

Republican fund sources for 1964 showed outstanding distribution as given in the following table:

TABLE 7.—REPUBLICAN NATIONAL AND CAMPAIGN INCOME SOURCES OF FUNDS, 1964

(Rounded to nearest hundred)

Source	Amount	Percent
Direct mail	\$5,815,100	32.4
State payments	2,710,100	15.1
Dinners	2,476,800	13.8
Associates	2,171,700	12.1
Dean Burch TV appeal	1,274,300	7.1
TV Los Angeles	1,184,600	6.6
Special events	1,058,900	5.9
Miscellaneous	807,700	4.5
Raised direct by congressional committees	448,700	2.5
Total	17,948,600	100.0

So much income from direct mail—\$2 per cent—and from television appeals—24 per cent—is unprecedented in American campaigns.

Democratic income in 1964 stood in stark contrast of that of the Republicans. While only 28 per cent of the dollar total of Republican contributions came in sums of \$500 or more, about 68 per cent of the dollar total of Democratic contributions—much of this through memberships in the \$1,000-a-year President's Club—came in these larger sums. Compared to the Republicans' 1964 financial base, that of the Democrats was narrow indeed.

Despite the continued success of Republican mail drives in 1968, the percentage of funds coming from this source was substantially less than it had been in 1964 because so much more money in big sums was raised. Analyses for 1968 show 47 per cent of the dollar value of their individual contributions came in sums of five hundred dollars and over—compared with only 28 per cent in 1964. The Democratic percentage of large contributors dropped slightly to 61 per cent in 1968, but if figures were to include the large loans, the percentage would be much higher.

Once in office, a President needs political funds. He is leader of the party, and needs to help it to pay off his campaign debt, or build a fund for mid-term congressional elections or for his own or intended successor's election. He also likes to have money available, channeled through party committees or not, that enables him to keep his own fences mended; for example, to help certain candidates for strategic or personal reasons. Part of the need may be to compete with other party leaders, especially congressional leaders, in his own party. Thus the President needs money to win election and then to mobilize support in office. The White House staff has been called a continuing campaign organization, and in part it is. The burden of staff salaries is on the government, not the party, but the political implications of what the White House does are always apparent.

The Democratic President's Club illustrates the needs. It was born of the need to pay off the large 1960 campaign deficit while also preparing for the 1962 elections. It became the main financial arm of the Democratic party nationally, but was conceived in more personal terms as a means to meet the financial obligations incurred in electing President Kennedy. President Johnson lost little time after the political moratorium following Kennedy's assassination, in meeting with President's Club members at a luncheon in New York City. During the 1964 campaign, one group supporting the Johnson candidacy was called "Friends of LBJ." The nomenclature is meaningful because most contributors were indeed personal friends of the President who raised the fund for his use in the campaign, a not uncommon occurrence.

There have been few compensatory positive features to the generally negative and restrictive character of laws regarding political finance. Historically, when the assessment of government employees was prohibited, no pattern of alternative statutory provisions followed to ease fund-raising problems or reduce political costs; the gap or income loss was filled by corporate contributions. When corporate giving was prohibited, again no statutory alternatives were enacted; the gap was filled by contributions of wealthy individuals. When wealthy individuals were restricted in their giving (though there were usually loopholes in these restrictions), again no permissive or enabling legislation was enacted to help make available new sources of funds; the gap this time was filled by a miscellany of measures, such as fund-raising dinners and other devices currently in use. It can perhaps truly be said that the last gap has never been adequately filled.

Government subsidies were first proposed by President Theodore Roosevelt as a means "to give the poor man a fair chance in politics." "The need for collecting large campaign funds would vanish," T. R. said in 1907, "if Congress provided an appropriation for the proper and legitimate expenses of each of the great national parties, an appropriation ample enough to meet the necessity for thorough organization and machinery, which requires a large expenditure of money." But it was not until 1966 that Congress took the first steps toward governmental involvement in financing presidential campaigns, and then reversed itself. The 1966 Long Act set up a Presidential Election Campaign Fund which would have provided about \$30 million to each major party in 1968. (Minor parties—those receiving between 5 and 15,000,000 votes in the preceding presidential election—would have been eligible for one dollar times the number of votes received in excess of 5,000,000.) Money for the Fund was to have come from many citizens by means of the income tax system; every taxpayer who owed one dollar or more to the Government would have had the option of

checking a box on the tax form to provide that one dollar of his tax liability go to the Fund. For a variety of political and tactical reasons, the law was made inoperative in 1967, before it had gone into effect. While this short-lived fling with a government subsidy left no direct effects, it served to raise again the questions of where the money to finance the political system will and should come from.

Most observers agree that the base of contributions must be broadened, if the questionable influences of large contributors and special interests are to be lessened, and if there are to be sufficient funds to carry out the election process. While there have always been critics of the system because of its reliance on large and special interest contributors, it is only very recently that the system has been questioned because of its inability to provide enough money. For example, the Democrats even while in power were almost continually in debt throughout the 1960's, and had a debt of \$8 million after the 1968 presidential election (including \$2 million from primary campaigns in addition to the \$6 million general election deficit). This deficit was the largest in history. Further, campaign costs are likely to continue to climb rapidly in response to new technologies and the demands of new constituencies.

There are many possible techniques to reach more people for contributions, and various systems of tax incentives to encourage financial support of politics. If some of these techniques and systems are not tried, the American political system is likely to face either greater reliance on very large contributors, or bankruptcy.

#### RECORD \$70.1 MILLION REPORTED SPENT IN 1968 ELECTIONS

##### CITIZENS' RESEARCH FOUNDATION

The Citizens' Research Foundation of Princeton, N.J., Herbert Alexander, director, gathered the official campaign contribution and expenditure figures reported to the Clerk of the House and Secretary of the Senate in Washington, D.C., and included in this special supplement.

The already-high costs of campaigning for federal office rose sharply again in 1968, setting a new record of \$70.1 million in nationally reported spending.

This all-time record for a Presidential election year amounted to \$22.3 million more than the previous high of \$47.8 million officially reported in 1964. The 1968 total was 47 percent greater than the 1964 figure and more than three times the \$23 million reported in 1952.

Included in the 1968 political spending figure are \$69.1 million listed with the Clerk of the House and Secretary of the Senate, and \$1 million in campaign expenses still owed creditors by the Democratic National Committee as of Nov. 24, 1969.

The skyrocketing costs of running for President and Congress were partially explained by a big boost in outlays for television and radio advertising. (For details on political broadcast costs, see p. 2441.)

Large increases in Republican and labor spending, as well as George C. Wallace's Presidential campaign, added substantially to the record-breaking total.

**Report Loopholes.** The official reports by political committees and candidates for the U.S. House and Senate reveal only a fraction of the money actually spent on campaigns for federal office.

Expenditures in Presidential and Congressional primary elections, and by campaign committees operating within a single state, need not be reported under federal law. (For provisions of the reporting law and its deficiencies, see box p. 2437.)

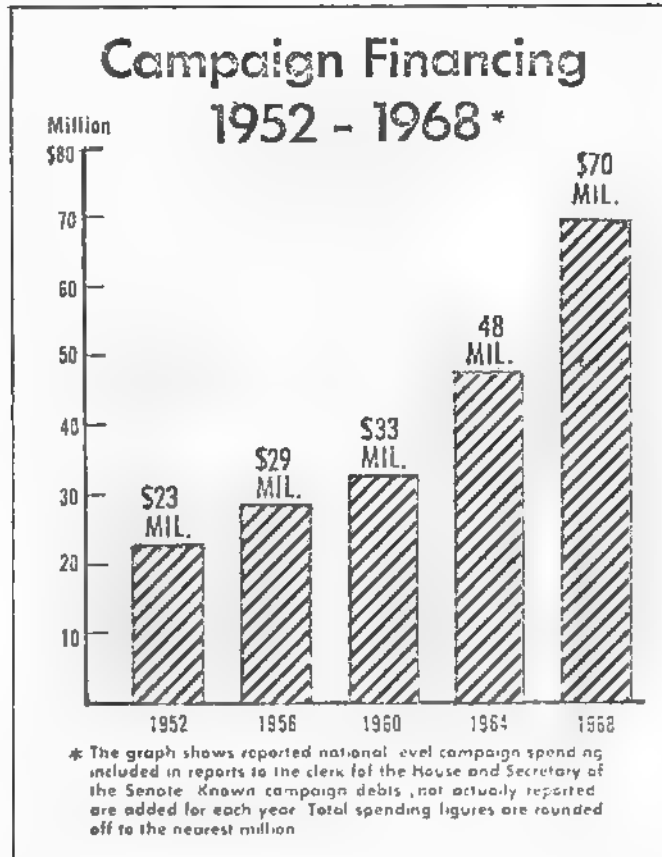
An estimated \$100 million was spent to elect a President in 1968, according to Herbert Alexander, director of the Citizens' Research Foundation. This estimate includes the pre-convention expenses of all candidates for Presidential nominations, as well as the cost of the conventions to the major parties and their delegates.

The cost of political activities at all levels in 1968, including primaries and intrastate committees, was estimated at \$300 million by Alexander. A corresponding estimate for 1964 was \$200 million.

The growing financial burdens of House and Senate campaigns have caused some Members of Congress to voice concern that only a select "aristocracy" may soon be able to afford the luxury of seeking office.

Committee Reports. Of the 143 major party committees that filed 1968 reports in accordance with the Corrupt Practices Act of 1925, 97 supported the Democratic candidates for President and Vice President and 46 the Republican candidates. George C. Wallace's Presidential campaign directors said that he had no campaign committees but, "in the interest of full public disclosure" filed three reports which were later supplemented by two other reports—the "George Wallace Campaign, California" and "Youth for Wallace, Western Headquarters."

Democratic committees showed 1968 spending of \$13.6 million, up slightly from the \$13.3 million reported in 1964. Republican committees listed 1968 outlays



of \$29.8 million, up \$10.3 million (33.4 percent) from the \$19.3 million reported in 1964. Wallace's campaign reports showed expenditures of \$7.2 million. (For details on spending in the 1956, 1960 and 1964 campaigns, see box p. 2435.)

Other 1968 reports covered 46 labor committees, 66 miscellaneous committees and Republican, Democratic and third-party candidates for Congress.

Labor contributions to political campaigns climbed to a record-breaking total of \$7.6 million in 1968, doubling the 1964 figure of \$3.8 million. In the 1966 mid-term elections 42 labor committees reported spending \$4.3 million.

Spending by miscellaneous political committees, their names often giving little clue to their actual intent, totaled \$4.9 billion in 1968, more than doubling the figure of \$2.1 reported in 1964. In the 1966 midterm elections, 44 miscellaneous committees listed \$2.5 million in expenditures. (For campaign spending reports in the non-Presidential election years of 1954, 1958, 1962 and 1966, see Weekly Report Supplement, Aug. 11, 1967, p. 1384.)



Candidates for the U.S. Senate and House reported expenditures of \$8.5 million in 1968, less than the \$9.2 million listed in 1964 but up from the 1966 mid-term election figure of \$6.4 million.

Republican candidates for Congress in 1968 reported spending \$3.2 million. Democratic candidates \$5 million and third-party and independent candidates \$324,654. The totals for Republican and Democratic Congressional candidates fell below 1964 figures for the respective parties. But spending reported by third-party and independent candidates set a new record.

The \$324,654 listed by third-party candidates amounted to 3.8 percent of the \$8.5 million reported in 1968 by all Congressional candidates in the general election. This broke the previous record of \$172,622 (2.6 percent of a total of \$6.6 million) for third-party candidates in 1962.

The rise in third-party spending in Congressional races was primarily due to the 1968 Senate campaign of Conservative Party candidate James L. Buckley in New York. Buckley, who received more than 1.1 million votes, reported to the Secretary of the Senate spending \$141,161 which was 43.5 percent of the entire third-party total.

Democratic Committee. One reason for the unusually large number of temporary committees organized during the 1968 campaign by the Democrats was to absorb large contributions and loans from individuals who, under the Corrupt Practices Act of 1925, could give no more than \$5,000 to any one national campaign committee. The Democrats had 97 committees in 1968 compared to 49 in 1964. (For list of 1968 Democratic committees, see p. 2443.)

The Jewelers for Humphrey-Muskie was an example of a committee used to accommodate contributors of large sums. The Committee reported total receipts of \$10,044. Of this, \$44 was in small contributions; the rest comprised two \$5,000 loans from West Coast businessmen—Lew R. Wasserman, president of M.C.A. Inc., and John Factor, the former convict once known as "Jake the Barber" who is now a real estate man and philanthropist.

Factor and Wasserman each supplied \$5,000 loans to other Humphrey-Muskie committees such as Sport Stars (total receipts and expenditures \$10,038), Economists (\$18,042), Doctors (\$13,078), Dentists (\$18,005), Conservationists (\$15,012), Advertising Executives (\$15,070), and Architects (\$13,000). In all, 48 of the 97 Humphrey-Muskie committees listed Wasserman and Factor as major backers. Each lent at least \$240,000.

Democratic Spending. The 97 Democratic committees officially reported receipts of \$20,633,655 and expenditures of \$19,063,693 in 1968. Comparison of the reports as filed, however, revealed inconsistencies.

Some of the loans had been repaid during the campaign, that same money then being lent again to another reporting committee and again repaid, but entered as a receipt and an expenditure by both committees.

Some donations were given to one reporting committee which entered the money as a receipt, then later transferred it to another reporting committee and entered the transfer as an expenditure. If the second committee also reported that same money as a receipt and then later, when it was spent, as an expenditure, the result was that a single contribution figured more than once in the Democratic total.

Allowance for these confusions in reporting gave the reporting Democratic committees a total for 1968 of \$14,145,677 in receipts, and \$12,577,715 in expenditures. This did not leave the Democratic National Committee (DNC) with a surplus, however.

Democratic Debts. A spokesman for the DNC told *Congressional Quarterly* Nov. 24, 1969 that national party debts totaled approximately \$8.5 million. The largest part of the debt, \$5 million, was in loans yet to be repaid. Another \$1 million was owed to creditors for unpaid bills.

Furthermore, the DNC spokesman said, the national committee voted to assume the pre-convention campaign debts of Hubert H. Humphrey and the late Sen. Robert F. Kennedy amounting to approximately \$1 million each or a total of \$2 million. An audit of expenses for the 1968 Democratic National Convention in Chicago revealed a deficit of between \$600,000 and \$700,000, the spokesman said.

The national convention deficit and the pre-convention debts of Humphrey and Kennedy are not included in Democratic-spending totals for the 1968 Presidential campaign. But the \$1 million in unpaid bills, incurred during the general election campaign on behalf of the Humphrey-Muskie ticket, was included in total Democratic committee spending.

Thus, the 97 Democratic campaign committees received \$14,145,667 and spent a total of \$13,577,715. The fact that *unpaid* loans are credited to total receipts creates the erroneous impression of a surplus.

**Republican Spending.** The reporting Republican committees showed total 1968 receipts of \$29,713,337, and expenditures of \$29,592,862.

**Wallace Spending.** The Wallace campaign reports showed receipts totaling \$6,973,745 and expenditures totaling \$7,242,896. Study revealed that while reports covering the Feb. 1-Oct. 21 and Oct. 21-Oct. 31 periods included both "\$100-and-over" and "under \$100" categories of contributions, the final report for November-December 1968, included only "\$100-and-over" contributions.

If the "under \$100" figures had been included in all Wallace campaign reports, receipts probably would have exceeded expenditures.

#### RIISING COSTS PRODUCE CONCERN

Statements by Members of Congress in 1969 indicate that the rising costs of Congressional campaigns was causing serious concern:

"When I ran for Congress, the first question asked me was whether I could finance my own campaign," said Rep. Bertram L. Podell (D-N.Y.) "If I had said 'no I cannot,' I would not have been the candidate. When you mention candidates for public office, you are only mentioning men of affluence," he asserted.

#### CAMPAIGN FINANCING—1956 THROUGH 1968

(The table below shows reported national-level campaign spending included in reports to the Clerk of the House for the campaigns of 1956, 1960, 1964 and 1968. Known campaign debts (not actually reported) are added to reported expenditures to determine total spending figures. Numbers on the committee line indicate the number of groups reporting.)

	1956	1960	1964	1968
<b>Republican committees (number).....</b>	31	43	41	46
Receipts.....	\$13,583,511	\$13,040,263	\$19,828,673	\$29,563,337
Expenditures.....	\$13,091,561	\$12,200,232	\$19,314,796	\$29,442,862
National committee debt.....	\$128,583	\$750,000	None	None
Total spending.....	\$13,220,144	\$12,950,232	\$19,314,796	\$29,563,337
Republican percentage of national spending.....	59.4	45.1	50.0	47.8
<b>Democratic committees (number).....</b>	22	29	49	87
Receipts.....	\$5,705,722	\$8,074,311	\$11,062,957	\$14,145,667
Expenditures.....	\$5,795,827	\$7,980,979	\$12,148,791	\$12,577,715
National committee debt.....	\$996,807	\$3,820,000	\$1,200,000	\$1,000,000
Total spending.....	\$6,492,634	\$11,800,979	\$13,348,791	\$13,577,715
Democratic percentage of national spending.....	29.2	42.0	34.6	21.6
<b>Wallace campaign receipts.....</b>				\$6,973,745
Expenditures.....	0	0	0	\$7,242,896
Total spending.....	0	0	0	\$7,242,896
Wallace percentage of national spending.....				11.5
<b>Labor committees (number).....</b>	43	60	40	46
Receipts.....	\$1,727,521	\$2,154,244	\$3,163,945	\$5,645,700
Expenditures.....	\$1,805,482	\$2,450,944	\$3,816,242	\$7,631,863
Labor percentage of national spending.....	8.1	8.7	9.9	12.2
<b>Miscellaneous committees (number).....</b>	16	22	34	68
Receipts.....	\$782,352	\$904,039	\$1,951,981	\$4,405,531
Expenditures.....	\$718,764	\$872,588	\$2,121,172	\$4,869,400
Plus unpaid bills.....	\$14,019	Unknown	Unknown	Unknown
Total spending.....	\$732,783	\$872,588	\$2,121,172	\$4,869,400
Miscellaneous committee percentage of national spending.....	3.3	3.1	5.5	7.7
<b>Congressional campaign spending reported:</b>				
Republican candidates.....	\$3,287,650	\$2,523,869	\$3,686,568	\$3,184,410
Democratic candidates.....	2,856,978	2,249,719	5,735,555	4,973,793
3d-party candidates.....	24,988	47,990	57,766	324,654
Total candidates.....	6,169,616	4,821,578	9,161,889	8,482,857
<b>Combined reported costs of campaign:</b>				
Total reported expenditures.....	22,251,043	23,504,474	37,401,000	60,885,857
Total debt.....	839,409	4,570,000	1,200,000	1,000,000
Total congressional spending.....	6,169,616	4,821,578	9,161,889	8,482,857
(Less lateral transfers by labor and miscellaneous committees in 1968) <sup>1</sup> .....				1,248,571
Total campaign costs.....	29,260,068	32,896,322	47,762,889	70,113,587

<sup>1</sup> Expenditure and receipt figures for 1968 are "less transfers" - i.e., lateral fund transfers between national-level committees have been deducted—with 2 exceptions. The labor and miscellaneous expenditure figures represent total reported spending in 1968, even when some of the funds were transferred to other committees. The lateral transfers by labor committees, \$1,034,790, and by miscellaneous groups, \$213,781, are subtracted at the end of the 1968 campaign spending column to avoid counting them twice in "total campaign costs."

<sup>2</sup> The receipts reported by Democratic committees include several million dollars in loans not repaid by the end of 1968.

<sup>3</sup> This Democratic National Committee (DNC) debt of \$1,000,000 covers only unpaid post-convention presidential campaign expense, and does not include some \$5,000,000 in unpaid loans, a DNC spokesman said Nov. 24, 1969.

<sup>4</sup> If a Wallace campaign report covering November-December 1968, had included "under \$100" contributors, the total of receipts would have been higher.

"When the Republic was founded the majority of the architects were quite intent on ridding themselves of an aristocracy," said Sen. Daniel J. Inouye (D Hawaii), chairman of the Democratic Senatorial Campaign Committee. "I am afraid that realities and practicalities of the election process have, to some extent, developed a new aristocracy of wealth and power."

Democratic National Chairman Sen. Fred R. Harris (D Okla.) in October told a Senate subcommittee discussing campaign financing that a Senatorial campaign in a state where an expenditure of \$250,000 was considered adequate six years ago would now cost "upwards of a million dollars."

**Report Loopholes.** Despite widespread Congressional concern about the difficulties of election finance, campaign spending figures filed with both Houses by Congressional candidates do little to reveal the extent of the problem.

The total spending reported by House candidates of all parties in 1968 was \$5,768,393, or \$13,261 for each of the 435 Congressional districts. These figures are based on reports filed with the Clerk of the House under the Corrupt Practices Act of 1925.

However, figures filed under state law with the State of Florida by House candidates from Florida's 12 Congressional districts reported 1968 campaign spending of \$1,139,274, or \$94,940 per Congressional district.

Candidates running for the 34 Senate seats at stake in 1968 reported total campaign spending of \$2,714,464, or \$79,837 per Senate seat, according to figures filed with the Secretary of the Senate under the Corrupt Practices Act.

But this figure is considerably less than the expenses of \$4,451,849 reported to the State of California by Sen. Alan Cranston (D), Max Rafferty (R) and former Sen. Thomas H. Kuchel (R) as the combined cost of their 1968 Senate campaigns.

These discrepancies between the reports of campaign spending filed with Congress and those reported to individual state governments are largely due to a wide variety of loopholes in the 1925 Corrupt Practices Act which requires the filing of spending figures with Congress.

Under the Corrupt Practices Act, a candidate must acknowledge only those campaign receipts and expenditures of which he has personal knowledge. Reports by campaign committees are required only when the committees exist in more than one state. In addition, expenditures in primary elections are not covered under the law. (*For a description of the weakness of Corrupt Practices Act, see p. 2437.*)

The existence of these broad loopholes and the absence of any enforcement of the Act against Congressional candidates, give candidates broad latitude in interpreting which campaign spending, if any, they will report to Congress. The lack of a consistent basis for the figures filed with Congress makes it difficult to ascertain campaign spending from the reports filed under the Corrupt Practices Act.

Some candidates file "none" for their campaign expenditures on the rationale that they did not have personal knowledge of the exact amounts raised and expended.

"We are very careful to make sure that Senator McGovern never sees the campaign receipts; they go right to the Committee," said George V. Cunningham, executive assistant to Sen. George McGovern (D S.D.). McGovern filed "none" for his campaign expenditures, although Cunningham estimated that his 1968 campaign cost \$140,000.

Rep. Marvin L. Eash (R Mich.) used a similar rationale in explaining why he filed "none" for his 1968 reelection expenses. "I don't expend any of my own funds and I don't have any control over the funds, so I don't have any specific knowledge of them," he said.

Many other candidates file only those campaign receipts and expenses which they handled personally. Rep. Brock Adams (D Wash.) said the standard practice was too "compartmentalize your operation so you don't handle money. I'm careful in federal campaigns not to take in and spend money personally," he said. And Rep. Laurence J. Burton (R Utah) said, "I declared only that money I personally received and spent. I did not include any committee money."

Interspersed with these incomplete reports are several fuller disclosures of campaign costs. These fuller reports can seem deceptively expensive, since the candidate's opponent may have only filed a small portion of his total campaign expenses.

"These are highly accurate figures," said Rep. Robert L. Leggett (D Calif.), referring to his report of \$49,859 in 1968 campaign expenses. Leggett's opponent, who received 41.5 percent of the vote, reported expenditures totaling only \$1,839.

Leggett said, however, that "one way to keep from getting arrested under the Corrupt Practices Act is to file incorrect figures." The Corrupt Practices Act sets a statutory maximum of \$25,000 for a Senate campaign and \$10,000 for a House race.

Candidates tend to take state laws on campaign spending far more seriously than the federal statute.

"I filed my campaign costs with the State of Maine," said Rep. William D. Hathaway (D). "If anyone wants to look it up, he can go to the Secretary of State of Maine." Although he filed complete figures with Maine, Hathaway said he filed "none" with the House, "because it is a nuisance to fill out more than one form."

#### STATE FIGURES

In 1968, 43 states required Congressional candidates to report campaign expenses. Of these, 31 states required reports from both candidates and campaign committees. (*For a more detailed discussion of state laws, see Congress and the Nation, Vol. II, p. 441.*)

By state figures, the California Senate race in 1968 was the most expensive in the country. In addition to primary expenses of almost \$2 million, Cranston filed spending of \$1,062,208, while Rafferty reported expenditures of \$1,390,797 for the general election.

However, little of this reported spending appeared in the figures filed with the U.S. Senate. Cranston indicated the existence of campaign committees without providing spending figures and Rafferty reported only personal expenditures of \$21,948.

In New York, according to state figures, Sen. Jacob K. Javits (R) spent approximately \$1,000,000 on his election campaign. Democrat Paul O'Dwyer reported spending of \$831,778 and Conservative James L. Buckley reported he spent \$172,692.

According to figures filed with the State of Pennsylvania, Sen. Richard S. Schweiker (R) spent \$664,614 in defeating former Sen. Joseph S. Clark (D), who reported expenditures of \$425,000. However, the total spending reported to the U.S. Senate by Schweiker and Clark together was \$62,286.

Ohio figures list general election spending of \$769,614 for Sen. William B. Saxbe (R) and \$393,016 for John J. Gilligan (D). But U.S. Senate figures show that Gilligan reported expenditures of "none" and Saxbe noted personal spending of \$20,962. Saxbe mentioned the existence of campaign committees without elaborating.

Senator Edward J. Gurney (R Fla.) spent \$750,231 in winning his first term, according to Florida figures which include both the primary and general election. The loser, former Governor Leroy Collins (D) reported expenditures of \$620,865. However, Gurney reported spending of only \$29,630 to the U.S. Senate, while Collins filed expenses of \$21,232.

#### LOOPHOLES IN THE CORRUPT PRACTICES ACT OF 1925

The basic federal law regulating campaign spending and requiring disclosure of receipts and expenditures by Congressional candidates is the Corrupt Practices Act of 1925—a law filled with loopholes.

The Corrupt Practices Act does not require reports of contributions or expenditures in either Presidential or Congressional primary campaigns or in connection with campaigns for a party's Presidential nomination—even though these efforts involve millions of dollars of expenses.

Though the law requires Senate and House candidates to report all spending made with their "knowledge or consent," most candidates interpret this to cover only their so-called "personal" campaign expenditures. Many candidates report they had no expenditures, or spent just a few hundred dollars on their campaigns—only a fraction of their real campaign costs.

Having reported no spending or nominal sums as their personal spending, the great majority of candidates take refuge in the legal fiction that the committees working in their behalf did so without their "knowledge or consent." Those committees, in turn, are not required to file because the Corrupt Practices Act specifically excludes political committees which work within a single state.

National-level political committees can hide their transfers of campaign money to candidates by simple reporting transfers of gross sums to state committees which are allied with the national group. The state committees, in turn, transfer

the money to individual candidates, but the names of the recipients never appear on the nationally filed reports. This practice is traditional for labor union political funds and has more recently been adopted by groups like the American Medical Political Action Committee.

Political committees can hide the actual purposes of their reported expenditures by simply listing the purpose as "payment for professional services" or a similarly meaningless phrase.

The actual identity of contributors can often be hidden by failing to give full names or giving addresses so incomplete that they make positive identification of the givers impossible.

The Corrupt Practice Act has never been enforced against Congressional candidates. The Act stipulates fines of up to \$10,000, two years in prison, or both, for willful non-compliance. Although no Congressional candidates have ever been prosecuted under the Act, in 1927 two Senators-elect were barred from taking their seats because of reports of excessive campaign spending. (*See Congress and the Nation*, Vol. II, p. 443).

Prior to 1969, the stated policy of the Justice Department, last spelled out by Attorney General Herbert Brownell in 1964 and confirmed by the Justice Department in a 1963 letter to *Congressional Quarterly*, was "not to institute investigations into possible violations of (the Act) in the absence of a request from the Clerk of the House of Representatives or the Secretary of the Senate." And until 1969 neither the Clerk of the House nor the Secretary of the Senate (both elected by the Members of their respective bodies) had ever referred possible violations to the Justice Department.

However, in January 1969, W. Pat Jennings, a former Representative (D Va. 1965-66) who became Clerk of the House in 1967, sent the names of 107 Congressional candidates and 20 Nixon-Agnew fund-raising groups to the Justice Department for failure to file financial statements on 1968 campaign spending. Although neither the Clerk's office nor the Justice Department would release the names of the candidates involved, it was reported that none of the 107 were incumbents. The Secretary of the Senate did not send the names of delinquent Senate candidates to the Justice Department.

Asked about the status of the case, a spokesman for the Justice Department said on Nov. 21 that the matter was still "under investigation." There is little expectation however, that the Justice Department will take any further action.

According to figures published by the State of Oregon, Sen. Robert W. Packwood (R) spent \$406,784 in defeating Sen. Wayne Morse (D) in the general election. Morse spent \$419,802. Packwood reported to the Senate expenditures of \$419,723 which he said covered both the primary and general election. Morse reported no spending, although he informed the Senate of the existence of campaign committees.

In Connecticut, Sen. Abraham A. Ribicoff (D) reported to the state that his reelection cost \$586,068. His Republican opponent, Edwin H. May Jr., reported spending \$256,360. Although May noted the existence of campaign committees without indicating their spending, the total reported to the U.S. Senate by both candidates was \$6,000.

And Sen. Charles McC. Mathias Jr. (R Md.) reported in accordance with Maryland law spending \$442,731 to defeat former Sen. Daulei B. Brewster (D), who reported having spent \$237,646.

Because of the wide diversity of Congressional districts and the number of House Members who face minimal reelection challenges, it is far more difficult to obtain realistic state figures for the average cost of a House race. However, state figures reveal several campaigns which cost a candidate more than \$100,000.

In Ohio's 22nd district, where redistricting forced two incumbents to run against each other, former Rep. Frances P. Bolton (R) ousted Rep. Charles A. Vanik (D), although she was defeated at the polls. Mrs. Bolton reported to Ohio spending \$110,235, while Vanik acknowledged campaign costs of \$88,327. Only a small portion of this spending—approximately 5 percent—was filed with the U.S. Clerk of the House.

According to state figures, two Florida House races cost more than \$100,000. Rep. Paul G. Rogers (D) reported spending \$116,853, while his unsuccessful opponent spent \$66,246. And Rep. William V. Chappell (D) reported spending \$116,853, while his defeated opponent claimed to have spent \$44,297.

## LIMITATIONS OF STATE FIGURES

Although generally far more accurate than figures filed with Congress, state figures often reflect only a portion of the real cost of running for Congress.

Of the 43 states which require some form of public disclosure, only 16 have any provision for the reports to be inspected for accuracy. Even in these 16 states a Congressional candidate's spending report is generally inspected by a fellow politician, often of the same party. Prosecution under state laws is almost nonexistent and candidates are consequently under little legal pressure to file accurate reports.

State figures are also often inaccurate because laws requiring disclosure of campaign spending in many instances, are coupled with statutes limiting the amount of money which can be spent on a Congressional race.

In 1966, 30 states had such statutory maximums, generally under \$100,000.

Many state statutes also have loopholes analogous to those in the Corrupt Practices Act of 1925 enabling candidates legally to report only a portion of total spending.

Only two states, Oregon and Kentucky, publish the reports filed disclosing campaign spending. In many other states, newspapers report the disclosures on an incomplete and sporadic basis. Although some states will furnish copies of the reports for a fee, others require that the reports be inspected only in the Secretary of State's office.

## PRIMARY ELECTION SPENDING

Although not covered by the Corrupt Practices Act, primary elections can often be as expensive as general election campaigns.

According to California figures, Rafferty spent \$1,075,094 to defeat Kuchel in the 1968 Republican primary. Kuchel reported expenses of \$822,355.

In Oregon then Sen. Wayne Morse reported spending \$311,227 to win renomination narrowly in a closely contested Democratic primary. Morse's principal opponent, Robert B. Duncan, listed campaign expenses of \$93,623.

In some predominantly Democratic Congressional districts, a primary fight is likely to be the principal campaign expense.

Rep. Bertram L. Podell (D), who carried his New York City district by a four-to-one margin over his nearest challenger in the 1968 general election, said, "A primary campaign has to run a minimum of \$50,000 . . . Judging from the caliber of the candidate who is opposing you, you must then spread upwards from there."

Rep. Bob Eckhardt (D Texas), who received 70.6 percent of the general election vote in 1968 in a district which consists of part of Houston and some suburbs, said the cost of a primary is "the extent of your resources." But, he added, "I would say for \$75,000 you could make a strong race."

## INSPECTION OF REPORTS

Under the Corrupt Practices Act, reports filed with the Clerk of the House are required to be available for public inspection for two years and those filed with the Secretary of the Senate for six years. At the end of these periods, both Houses send their records to the National Archives. Under the Legislative Reorganization Act of 1946 each House retains title and control of their records when stored in the Archives.

Benjamin J. Guthrie, director of legislative processes in the House Clerk's office, said that at the end of a 50-year period the House records stored in the Archives could become available to scholars by a resolution of the House.

William D. Lackey Jr., assistant executive clerk in the Secretary of the Senate's office, said that all reasonable requests to examine the Senate records stored in the Archives would be granted.

## CAMPAIGN COST STUDY

One estimate of the cost of Congressional campaigns is provided by a report soon to be published by the Committee on Congressional Ethics of the Association of the Bar of the City of New York.

The authors of the report received responses from 23 Senators and 91 Representatives regarding the cost of their last campaigns.

Campaign spending of more than \$100,000 was reported by 11 of the 16 Democratic Senators and five of the seven Republican Senators who participated in the study. However, only six of the Democratic Senators and three of the Republican Senators reported spending more than \$200,000.

The report stated that 49.4 percent of the 91 House Members who responded spent less than \$30,000 in their last campaign, 35.2 percent spent between \$30,000 and \$60,000, and 15.4 percent spent more than \$60,000.

The greatest spending was reported by Representatives from the South and from urban areas. One quarter of the respondents in both groups reported spending more than \$60,000 in their last campaign. However, only four percent of the Members from the Midwest and only 8.2 percent of the Members who served at least 10 years in the House reported spending more than \$60,000.

Lee Potter, executive director of the National Republican Congressional Campaign Committee, estimated that a close House race could cost between \$60,000 and \$100,000 with the figure dropping to \$40,000 in a rural area.

Potter said that the "general costs of billboards, direct mail and getting out the vote are almost the same anywhere. What is different is the varying cost of television and radio."

#### POLITICAL CONTRIBUTION LAWS AND RECENT PROSECUTIONS

The Tillman Act, which became law in 1907, prohibits corporations and national banks from contributing to election campaigns. This prohibition was extended to labor unions by the Taft-Hartley Act in 1947.

Many labor unions, however, establish political committees to handle the voluntary contributions of their members. Examples of these committees are the AFI-CIO's Committee on Political Education (COPE) and the Democrat, Republican, Independent Voter Education (DRIVE) Committee of the Teamsters Union. The funds are often transferred to local committees.

Until 1969, these statutes were rarely enforced. Only three prosecutions were undertaken from 1907 through 1968. However, in 1969 the Justice Department under the Nixon Administration has indicted 10 corporations for violations of these election laws.

Most of the violations came to light during an unrelated examination of the books of California advertising agencies by the Internal Revenue Service (IRS). These political contributions were generally masked as payments for non-existent services to the agency handling the candidate's account.

The names of the recipients of the illegal contributions were not included in any of the 10 indictments. A Justice Department spokesman told *Congressional Quarterly* that most cases involved contributions to Presidential and Congressional candidates.

The National Brewing Co. of Baltimore, Md., and six California companies have entered guilty pleas on these charges. The California corporations are the Fluor Corp.; the Clougherty Packing Co.; Galaxy, Inc. (now known as Howfield Inc.); Home Savings and Loan Association; Arrowhead Savings and Loan Association and Continental Savings and Loan Association (now both merged into Home Savings and Loan).

The three other companies under indictment, all located in California, are the Rossmore Corp.; Max Sobel Wholesale Liquors Inc.; and M. A. Nishkian and Co.

The Justice Department spokesman said several other investigations concerning election law violations were in progress. "There will be more," IRS Commissioner Randolph Thrower told *The Wall Street Journal* Nov. 21.

Several Members of Congress contended that violations of election laws by corporations were a relatively standard practice.

Rep. Bertram L. Podell (D N.Y.) said that many large corporations loan "a plane and a pilot to the candidate of their choice." Podell also said corporations often "make available to a candidate . . . a fleet of automobiles, plus the use of their public relations staff."

Rep. Bob Eckhardt (D Texas) said that the aggregate amount of a corporation's indirect aid to a political candidate "by reassigning personnel and the use of mechanical equipment may exceed . . . the amount given by direct contributors."

As an example of such indirect aid, Eckhardt said, "A company which ordinarily advertises on billboards may give them up a little early . . . sometimes it is an outright loan." Other examples were "the use of mailing lists of a company and the use of their reproduction equipment."

A leading Texas corporation "was against me in one campaign," said Eckhardt, "and they permitted one of their officials to work as a campaign aide for my opponent . . . a man like that stays on the payroll," he said.

The Justice Department is also investigating irregularities in political fund raising by unions. A federal grand jury in Brooklyn, N.Y., has for the past year been examining allegations that contributions have been illegally made to political candidates by the Seafarers International Union (SIU). The investigation follows the 1968 convictions of officers of St. Louis, Mo., Pipefitters Local 562 for illegal campaign contributions. (For details, see 1968 Almanac, p. 661.)

In 1968, two SIU committees reported \$946,766 in political expenditures to the House Clerk. This was the third highest union total in the country. In 1966 when they reported spending of \$593,322, the two SIU committees had the second highest campaign spending figures for any labor group. (For the financial data filed with the House Clerk by the SIU, see p. 2458.)

#### INCREASE IN CAMPAIGN SPENDING

Potter estimated that between 1964 and 1968 the cost of campaigning rose by approximately 15 percent. Potter attributed this rise to a combination of inflation, the growing computerization and mechanization of political campaigns and the rise in the postage rates.

A major factor for the rise in the cost of campaigns has been an increasing reliance by candidates, especially Senate candidates, on television. (For a discussion of 1968 political broadcast costs, see p. 2441.)

Advertising cost indexes from the March 1969, issue of *Media/scope* magazine reveal that television rates for spot advertisements have risen by more than 84 percent between 1965 and 1969. This is far higher than the increase in the rates of magazine, newspaper and radio advertisements.

The report by the New York City Bar Association stated that 72.7 percent of the Senators and 25.5 percent of the Representatives said they had spent more than half their budgets on television.

All of the Senators who said their last campaigns cost more than \$200,000 spent at least half of their budget on television. Of the Representatives who spent more than \$60,000 on their last campaigns, 53.8 percent reported they spent half or more of their budgets on television.

Only in the East and in large metropolitan areas did a majority of the Representatives campaign without the use of television. The report stated that 82.4 percent of the Representatives from large metropolitan areas and 72.4 percent of the Representatives from the East said they did not use television in their last campaign.

Rep. Eckhardt, who represents the Houston area, explained, "Whenever I buy television time, I must buy three times the area I need. There is no way I can buy just the area I represent."

The problem is most acute in the New York City area where local television stations reach about 40 Congressional districts. In addition to the high costs of television time Rep. Podell said, "Members of Congress from New York City are unable to project their views through the media. This is more of a problem with *The New York Times* and the *New York Post* than with television. . . . It's through the mails or nothing." Rep. Adams, who represents part of Seattle and its suburbs, cited similar problems.

Figures filed with the State of California provide some estimate of 1968 media costs. Sen. Cranston spent \$673,178 for television and radio advertising, more than 40 percent of his campaign budget. Raftery reported spending \$371,178 on radio and television, slightly more than 20 percent of his reported expenses.

Warren Sewall, executive assistant to Sen. Gaylord Nelson (D Wis.), said that in 1968 Nelson spent about \$250,000 of a total campaign budget of \$450,000 for television.

#### STUDY OF CONTRIBUTORS

Several questions regarding campaign contributions were asked as part of a far-reaching nationwide survey of political attitudes conducted in the last two months of 1968 by the Survey Research Center at the University of Michigan. Data from this survey was made available to *Congressional Quarterly* by the Inter-University Consortium for Political Research.

Of the 1,346 adults surveyed, 23.0 percent said they or another member of their household had been asked to give money or buy tickets to help pay the campaign expenses of a political party or candidate in 1968.



More people said they had been solicited by Republicans than Democrats. Republicans solicited 8.9 percent of all adults surveyed, Democrats asked 6.8 percent and 4.0 percent said they had been approached by representatives of both parties. In addition, 1.4 percent of the respondents said they had been asked to donate to George C. Wallace's party and 1.0 percent said they had been solicited by a fourth party.

Of those asked for contributions, 38.8 percent said they contributed. They represented 8.3 percent of the total sample.

More people said they contributed to the Republican Party and Republican candidates than to Democrats. In all, 4.1 percent of the sample said they gave to the Republicans and 3.7 percent said they gave to the Democrats.

Many Members of Congress share the view of Sen. Charles McC. Mathias Jr. (R Md.) that the bigger contributor is absolutely necessary the way the system has been working. Unless you have big chunks of money, you couldn't make the commitments for various media contracts."

"There aren't many large contributors in Utah," said Rep. Burton. "My first term in the House, my largest contribution came from the AMA (American Medical Association). They were against one of the first bills I voted on (federal assistance to medical schools), but I voted for it."

However, Burton said it was represented to him recently that someone wanted to make an extensive campaign contribution. "I'm not talking about \$5,000," he said. "I'm talking about several times that I didn't want to talk to him. Anyone with that kind of investment has to be after something." Burton also said, "I'm sure that some Members—pretty few—may be in hock to someone for \$100,000."

Sen. Cranston said that he thought the maximum a political contributor should receive from a Member of Congress is "access."

Cranston explained, "You only have so much time to see people while in public office. In that time you will have to see someone who is a big contributor. I think you have some obligation to see that person's side. That does not mean you have to do what he wants," he said.

In theory, Cranston said, every citizen has that same right to access, "but you don't have time for every citizen." Cranston added, "Access in many cases may be just saying hello to someone."

#### OUTLOOK

Although Senate hearings on campaign financing were held in October, there appears to be little optimism about reduced campaign costs in the immediate future. (For summary of hearings, see *Weekly Report*, p. 2187. For a discussion of reform attempts in recent years, see *Congress and the Nation*, Vol. II, p. 443).

"One obstacle to reform is that people in office got there under the present system," Sen. Cranston said. "The incumbent can always raise money more easily than the challenger."

A similar view was expressed by Rep. Adams. "The people who are going to be voting on reform measures are the people who have tried the system as it is. Reform will be in direct ratio to the amount of interest shown by the public."

Perhaps the most popular of the reform proposals is an income tax credit or an income tax deduction to stimulate small contributions. Rep. Hathaway said, "I think that if a man got a tax credit, he'd be willing to give \$10 to a political party."

Rep. Eckhardt disagreed. "Most people want to make a sacrifice when they give to a political campaign. They don't make a contribution because they want to get a tax break." Rep. Podell said, "The \$7,000-a-year man is not interested in a tax credit."

Eckhardt linked the shortage of small political contributions to the reform of the political parties. He contended that the desire for "self-expression" is what motivates people into politics today. "Participation," he said, through reform of the political parties "would do more than anything to encourage small contributors."

Increased participation by young volunteers was also seen as one way the costs of campaigning might be reduced. Rep. Adams said, "You put 2,000 or 3,000 young people out in a Congressional district and your money costs go way down."

#### NIXON BROADCAST COSTS ARE TWICE THOSE FOR HUMPHREY

Republicans spent more than twice as much money on television and radio in their successful bid to elect Richard M. Nixon and Spiro T. Agnew in 1968 as Democrats spent on behalf of Hubert H. Humphrey and Edmund S. Muskie.

According to statistics compiled by the Federal Communications Commission (FCC) and released Aug. 27, Nixon-Agnew forces spent \$12,597,953 on TV and radio during the general election campaign, compared with \$6,143,277 spent on behalf of Humphrey and Muskie. These expenses covered paid program and spot-announcement time on networks and local stations, including appearances of the Presidential and vice presidential candidates and their supporters. They did not include production costs.

A breakdown of the FCC figures shows that Nixon-Agnew supporters spent \$4,189,298 on network television, \$468,871 on network radio, \$4,817,814 on local television and \$3,121,970 on local radio. Supporters of Humphrey-Muskie spent \$2,500,917 on network television, \$177,808 on network radio, \$1,973,560 on local television and \$1,490,997 on local radio.

These expenditures were only a portion of the record amount of \$58,888,101 spent for political broadcasting during the election campaigns of 1968, the FCC reported. This total represented a 70-percent increase over expenditures for television and radio broadcasts in 1964, the last previous Presidential election year.

The \$58,888,101 in broadcasting costs represented about one-fifth of the \$300 million that Herbert E. Alexander, director of the Citizens Research Foundation, estimated was spent at all levels for political campaigns in 1968. Alexander said the inclusion of production and program promotion costs, which were not reflected in the FCC figures, would boost the total cost  $\frac{1}{2}$  to  $\frac{1}{2}$  above the reported charges for broadcast time.

Spending for television and radio far outstripped political newspaper advertising in 1968. The Bureau of Advertising in New York estimated that about \$13 million was spent for political ads in newspapers during the year; an estimated \$2,345,000 of this was spent on behalf of the three major Presidential candidates in the fall campaign.

#### Use of Radio—Television Increasing

The figures reflect a marked increase in the importance politicians attach to the use of television and radio as well as mounting costs of these media to candidates. Against this background, the National Committee for an Effective Congress has proposed legislation that would greatly reduce the cost of television broadcasting for Senate and House candidates.

The legislation, introduced in both houses in 1969, would permit legally qualified candidates for Congress an opportunity to buy a limited amount of television time at reduced rates during the final five weeks of the general election campaign.

More than 5 million political announcements were beamed on the airwaves during 1968 elections, the FCC said. Most of the messages were on radio, but most of the expenditures were for television.

Altogether, Republicans spent \$27,890,063 and Democrats spent \$27,895,649 on broadcasting activities during the year. Democrats spent considerably more on primary elections than did Republicans (\$12,417,660 to \$5,355,235), but Republicans spent much more on general election broadcasting (\$22,504,858 to the Democrats' \$15,477,989). Other parties and support groups spent a total of \$3,162,359 in the primary and general election campaigns.

More than two-thirds (68.6 percent) of the total spent on television and radio by all groups was concentrated on the general elections. (For a comparison with past years, see "General Election Comparisons.")

The FCC report was compiled from information received from 633 commercial television stations and 5,600 commercial radio stations; a total of 647 television stations and 5,902 radio stations were in operation in the United States during

the 1968 election campaigns. The cost figures accounted for air time only and did not include production costs, free time or time on commercially sponsored programs.

Almost half (48.3 percent) of the television and radio expenditures were made in the primary and general campaigns for President; in these primaries, Democrats spent 60 percent more than Republicans. U.S. Senate contests accounted for 17.7 percent and gubernatorial contests for 10.5 percent of the total broadcast expenditures.

#### *Breakdown of Spending*

In a breakdown by media, the FCC survey found that television broadcasting accounted for \$37,977,729, or 64.5 percent of the total spent, and radio broadcasting cost \$20,910,372, or 35.5 percent of the total. TV networks drew \$8,881,023, or 23.4 percent of funds spent for television; radio networks attracted only \$691,740, or 3.3 percent of the money spent on radio. Thus local radio and television accounted for the bulk of expenditures.

According to an Aug. 6 FCC report on television broadcast revenues for 1968, total television revenue from time sales on all levels for the year was \$2,087,600,000. Paid political broadcasts accounted for 1.8 percent of this revenue.

Political broadcasting was concentrated in a handful of states. California television and radio stations attracted about 1/12 of the total broadcasting expenditures, receiving \$5,081,098. States in addition to California in which more than \$1 million was spent were Florida, Illinois, Indiana, Michigan, New York, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Texas and Wisconsin. (See table p. 294)

#### *Network Costs*

In the Presidential and vice presidential contests, the three television networks ran a combined total of 36 hours and 35 minutes in programs paid for by candidates or supporters during the primary and general elections. Average cost of these programs was \$2,112 per minute.

Network TV spot announcements for these contests cost an average of \$23,193 each. Paid network TV program time for the Humphrey-Muskie campaign totaled 12 hours and 35 minutes; the paid time for Nixon-Agnew was exactly 12 hours. Nixon-Agnew had 110 spot announcements to 37 for Humphrey-Muskie.

Network radio a less expensive medium, carried a total of 15 hours and 13 minutes of paid time during the primary and general elections, at an average cost of \$263 per minute, and 700 spot announcements, at an average cost of \$645 per announcement.

Republicans far outpaced Democrats both in paid program time and in announcements on network radio: Nixon-Agnew had 9 hours and 40 minutes of program time to 2 hours and 40 minutes for Humphrey-Muskie, and 453 spot announcements to the Democrats' 240. This emphasis reflected the strategy of the Nixon campaign to project the candidate's image through set speeches and audience participation on the electronic media, especially radio, rather than through direct confrontation such as press conferences.

#### *Free Time*

In addition to paid time for Presidential and vice presidential candidates, the TV networks in 1968 transmitted 16 hours and 17 minutes of sustaining (free) programs and 70 hours and 58 minutes of commercially sponsored programs such as *Meet the Press* and *Issues and Answers*. The survey found that the average number of stations that carried the network shows was 150 for sustaining program, 162 for commercially sponsored programs and 177 for paid political programs.

"Other" candidates, including George Wallace and Curtis LeMay, received 77 minutes of free TV network time in the general campaign. That compared with 65 minutes for Nixon and Agnew and 69 minutes for Humphrey and Muskie.

## STATION CHARGES FOR POLITICAL BROADCASTS, 1968, TELEVISION AND RADIO, PRIMARY AND GENERAL ELECTIONS

[Excludes network charges totaling \$9,572,763]

States	Total	Republican	Democratic	Other
Alabama	\$453,479	\$ 73,782	\$340,615	\$39,082
Alaska	355,576	154,771	191,677	9,128
Arizona	447,533	165,066	264,931	17,536
Arkansas	986,186	426,624	526,124	33,438
California	5,031,098	1,997,401	2,737,330	296,367
Colorado	350,749	199,384	137,071	14,294
Connecticut	333,754	125,953	189,307	18,494
Delaware	97,252	72,382	21,648	3,221
District of Columbia	426,655	174,863	223,359	28,433
Florida	2,335,108	987,913	1,268,516	78,679
Georgia	866,731	236,628	581,929	48,174
Hawaii	554,630	234,089	318,631	1,910
Idaho	141,906	72,764	60,243	8,899
Illinois	2,764,792	1,533,042	1,165,519	66,231
Indiana	1,607,948	617,038	934,813	56,097
Iowa	771,687	421,547	337,950	12,190
Kansas	588,375	315,220	265,616	8,539
Kentucky	411,730	147,948	244,129	19,653
Louisiana	884,285	187,999	656,717	39,569
Maine	168,863	91,747	75,709	2,407
Maryland	467,427	197,988	206,724	62,715
Massachusetts	599,725	259,545	281,466	58,714
Michigan	1,143,682	569,643	563,399	210,640
Minnesota	447,101	192,207	194,150	60,744
Mississippi	63,209	7,402	39,502	16,305
Missouri	2,420,363	985,098	1,379,022	56,243
Montana	317,394	141,997	162,728	12,669
Nebraska	314,648	115,898	163,561	35,189
Nevada	361,122	138,029	168,461	54,632
New Hampshire	161,293	75,022	82,079	4,192
New Jersey	238,324	116,608	103,913	17,803
New Mexico	312,578	108,410	201,033	3,133
New York	3,873,897	2,087,743	1,650,295	135,859
North Carolina	1,125,194	395,875	681,919	47,400
North Dakota	304,847	156,159	119,758	28,930
Ohio	2,731,266	1,770,092	804,990	156,184
Oklahoma	670,013	266,979	365,753	37,281
Oregon	1,189,518	547,293	552,214	90,011
Pennsylvania	2,119,664	1,265,001	734,317	120,346
Rhode Island	414,307	189,680	213,343	11,284
South Carolina	601,435	213,759	355,942	31,734
South Dakota	222,837	85,139	131,304	6,394
Tennessee	1,746,689	1,246,657	416,085	83,937
Texas	3,576,206	1,234,481	2,193,635	148,090
Utah	253,358	98,070	148,006	7,282
Vermont	69,334	44,520	23,813	1,001
Virginia	299,132	149,330	111,867	37,935
Washington	675,039	268,848	372,542	33,648
West Virginia	661,181	323,141	309,186	28,854
Wisconsin	2,280,879	632,158	1,584,248	64,472
Wyoming	73,341	48,156	19,204	5,981
Total	49,315,338	22,165,099	24,676,305	2,473,934

Source: Federal Communications Commission, August 1969.

## GENERAL ELECTION COMPARISONS

The importance that politicians attach to television and radio as a means of getting their messages to the public is demonstrated by the quadrupling of their expenditures for general election campaign broadcasting between 1956 and 1968.

In 1956, network and local station charges for television and radio activities during the general campaign totaled \$9,818,342. In 1968, the combined charges were \$40,403,498. During these Presidential election years, Republicans have consistently outspent Democrats in the general campaign, especially in 1968, when Republicans spent \$22,504,858 to the Democrats' \$15,447,989. Here is a comparison, as compiled by the Federal Communications Commission:

	1968	1964	1960	1956
Total	\$40,403,498	\$24,603,989	\$14,195,278	\$9,818,342
Republican	22,504,858	13,032,575	7,558,899	5,381,881
Democratic	15,447,989	11,012,626	6,204,886	4,126,712
Other	2,450,651	558,788	431,493	319,739

## COMMITTEES THAT REPORTED NATIONAL-LEVEL CAMPAIGN SPENDING IN 1968

(Rounded to nearest dollar)

	Receipts	Expenditures
<b>SUPPORTING THE DEMOCRATIC CANDIDATES</b>		
Committees:		
g Executives for Humphrey-Muskie (D.C.)	\$15,070	\$15,070
for Humphrey-Muskie (D.C.)	13,000	13,000
Letters for Humphrey-Muskie (N.Y.)	11,367	16,989
or Humphrey-Muskie (D.C.)	189,616	189,616
ven for Humphrey-Muskie (D.C.)	204,177	204,144
een for Humphrey-Muskie (D.C.)	82,032	82,032
omen for Humphrey-Muskie (D.C.)	148,507	148,507
for Humphrey-Muskie (D.C.)	13,011	13,011
r Humphrey (D.C.)	45,661	45,661
r Humphrey of Philadelphia (Pa.)	5,449	3,172
r Humphrey-Muskie (D.C.)	2,902,461	2,901,203
r Humphrey-Muskie (D.C.)	288,856	289,208
r Humphrey-Muskie (N.M.)	150	150
r Humphrey-Muskie (N.Y.)	43,751	25,000
ionists for Humphrey-Muskie (D.C.)	15,012	15,012
iders for Humphrey-Muskie (D.C.)	10,032	10,032
icals for Humphrey-Muskie (D.C.)	157,573	157,573
ees for Humphrey-Muskie	12,415	12,415
ds of Humphrey (D.C.)	17,415	17,415
phrey for President Club (D.C.)	30,415	30,415
le to Humphrey (D.C.)	12,415	12,415
or Humphrey-Muskie (D.C.)	16,005	16,005
x Humphrey-Muskie (D.C.)	13,078	13,078
la for Humphrey-Muskie (D.C.)	18,042	18,042
. for Humphrey-Muskie (D.C.)	179,580	179,580
ers for Humphrey-Muskie (D.C.)	179,614	179,614
x Humphrey-Muskie (D.C.)	216,631	216,631
mlines for Humphrey (N.Y.)	21,507	9,733
to Vote for Humphrey (D.C.)	137,000	137,000
.Y. Liberal Republicans, Democrats and Independents for Humphrey		
	18,825	18,792
ing Film Committee (N.Y.)	47,430	47,430
y for President Club (D.C.)	491,548	401,000
y for President (D.C.)	1,619,910	1,574,478
y-Muskie AD Committee (Mass.)	3,199	3,199
y-Muskie California Campaign (Calif.)	17,592	10,008
y-Muskie Campaign Materials (D.C.)	89,683	89,683
y-Muskie Media (D.C.)	2,203,926	2,203,926
y-Muskie National Finance (D.C.)	671,322	211,975
y-Muskie Public Relations Fund (Calif.)	42,385	31,738
y-Muskie Victory (D.C.)	42,539	41,976
y-Muskie Weekly TV (D.C.)	3,125,294	1,446,279
gits for Humphrey-Muskie (D.C.)	218,161	218,161
ists for Humphrey-Muskie (D.C.)	184,505	184,505
g Executives for Humphrey-Muskie (D.C.)	15,137	15,137
for Humphrey-Muskie (D.C.)	10,044	10,044
for Humphrey-Muskie (D.C.)	179,628	179,628
s for Humphrey-Muskie (D.C.)	15,026	15,026
modrats for Humphrey-Muskie (Maine)	46,880	6,211
or Humphrey-Muskie (D.C.)	142,550	142,550
r Supporters for Humphrey Now (I.I.)	1,038	1,038
a Citizens for Humphrey-Muskie (D.C.)	64,926	64,926
a Friends for Humphrey-Muskie (D.C.)	62,704	62,704
a Humphrey for President Club (D.C.)	70,948	70,948
a Salute to Humphrey (D.C.)	51,426	51,426
s for Humphrey-Muskie (D.C.)	42,354	42,354
s for Humphrey-Muskie (D.C.)	13,100	13,100
s for Humphrey-Muskie (D.C.)	43,270	34,195
to Vice President (D.C.)	13,062	13,062
First Americans for Humphrey-Muskie (D.C.)	32,231	32,231
Coordinating Committee for Humphrey (Ohio)	40,182	35,905
Coordinating Committee for Humphrey-Muskie (Ohio)	36,337	36,337
Coordinating Committee for Nomination of Hubert Humphrey (Minn.)	10,433	10,433
enders for Humphrey-Muskie (D.C.)	501,454	476,226
phrey for President Club (N.Y.)	344,575	295,769
in Humphrey-Muskie Campaign (N.Y.)	11,144	11,093
ntners for Humphrey-Muskie (N.Y.)	38,584	38,584
ists for Humphrey-Muskie (D.C.)	174,081	174,081
' Humphrey-Muskie (D.C.)	13,035	13,035
mal Men for Humphrey-Muskie (D.C.)	194,567	194,567
ministrators for Humphrey-Muskie (D.C.)	10,051	10,051
ite Dealers for Humphrey-Muskie (D.C.)	19,160	19,160
for Humphrey-Muskie (D.C.)	165,832	165,832
etric Americans for Humphrey-Muskie (D.C.)	148,510	148,510
rkers for Humphrey-Muskie (D.C.)	15,076	15,076
s and Engineers for Humphrey-Muskie (D.C.)	179,500	179,500

note at end of table

## COMMITTEES THAT REPORTED NATIONAL-LEVEL CAMPAIGN SPENDING IN 1968—Continued

(Rounded to nearest dollar)

	Receipts	Expen
<b>SUPPORTING THE DEMOCRATIC CANDIDATES</b>		
Senior Citizens for Humphrey-Muskie (D.C.).....	160,510	1
Small Businessmen for Humphrey-Muskie (D.C.).....	174,539	1
Social Workers for Humphrey-Muskie (D.C.).....	15,097	
Sport Stars for Humphrey-Muskie (D.C.).....	10,036	
Texas Citizens for Humphrey-Muskie (Texas).....	59,060	
United Chiropractors for Humphrey-Muskie (Wash.).....	2,753	
Veterans for Humphrey-Muskie (D.C.).....	174,517	1
Veterans for Humphrey-Muskie (D.C.).....	9,067	
Victory Committee for Humphrey-Muskie (D.C.).....	32,571	
Volunteers for Humphrey-Muskie (D.C.).....	52,670	
Wholesalers for Humphrey-Muskie (D.C.).....	15,050	
Women for Humphrey-Muskie (D.C.).....	170,543	1
Women's Voice for Humphrey-Muskie (D.C.).....	7,951	
Young Americans for Humphrey-Muskie (D.C.).....	23,060	
Young Executives for Humphrey-Muskie (D.C.).....	23,461	
Democratic Campaign Committees, 1968.....	17,421,993	14,9
<b>Standing Committees:</b>		
Citizens for Johnson-Humphrey (D.C.).....	84,331	
Democratic Congressional Campaign (D.C.).....	375,918	
Democratic National Committee (D.C.).....	2,040,093	2,6
Democratic National Congressional (D.C.).....	37,605	1
Democratic Senatorial Campaign (D.C.).....	429,911	9
Democratic Study Group Campaign Fund (D.C.).....	199,454	1
President's Club for Johnson (D.C.).....	44,450	1
Democratic Standing Committees, 1968.....	3,211,762	4,1
Total Democratic Campaign and Standing Committees, 1968 total as reported.....	20,633,655	19,0
Liberal transfers.....	-5,621,178	-6,0
Money earmarked and reported spent but not actually spent.....	-280,000	-20
Loans included in reports as receipts and expenditures that were repaid during the campaign.....	-386,800	-31
Democratic Campaign and Standing Committees, 1968, adjusted.....	14,145,677	12,51
<b>SUPPORTING THE REPUBLICAN CANDIDATES</b>		
<b>Campaign Committees:</b>		
Agnew for Vice President (D.C.).....	104,089	1
Americans for Good Government (D.C.).....	174,200	1
D.C. Nixon-Agnew Dinner (D.C.).....	83,588	
Democrats for Nixon-Agnew (D.C.).....	64,750	
Grassroots for Nixon-Agnew (D.C.).....	146,340	1
Independents for Nixon-Agnew (D.C.).....	138,199	1
Missouri Nixon for President (Mo.).....	10,283	1
Nebraska Lawyers for Nixon-Agnew (Nebr.).....	836	
Nixon-Agnew Campaign (D.C.).....	2,401,029	2,31
Nixon-Agnew Campaign—7th District, Mo. (Mo.).....	1,010	
Nixon-Agnew Committee (D.C.).....	1,304,827	1,2
Nixon-Agnew Committee for Northern California (Calif.).....	130,360	1
Nixon-Agnew Communications (D.C.).....	121,047	1
Nixon-Agnew Election (D.C.).....	588,140	5
Nixon-Agnew Finance (D.C.).....	2,982,278	2,8
Nixon-Agnew Missouri Finance (Mo.).....	80,630	
Nixon-Agnew TV (D.C.).....	2,157,898	1,7
Nixon-Agnew Victory (D.C.).....	1,594,387	1,9
Nixon-Agnew Victory Rally (N.Y.).....	377,852	3
North Carolina Citizens for Nixon (N.C.).....	78,313	
Oklahoma Lawyers for Nixon-Agnew (Okla.).....	1,011	
Republican National Finance Advisory (D.C.).....	423,593	3
Republican National Finance (D.C.).....	1,024,261	9
Republican Victory (D.C.).....	1,353,641	1,3
R.N. Associates (D.C.).....	368,349	2
Tennessee for Nixon (Tenn.).....	33,634	
Thurmond Speaks (S.C.).....	133,146	1
Thurmond Speaks for Nixon-Agnew (S.C.).....	12,916	
T.V. for Nixon-Agnew (D.C.).....	374,208	3
United Citizens for Nixon-Agnew (D.C.).....	717,662	6
Victory '68 (D.C.).....	2,426,109	2,2
Vote Getters for Nixon (D.C.).....	13,790	
Wake County Nixon for President Club (N.C.).....	2,675	
Women's Finance Committee for Nixon-Agnew (D.C.).....	52,814	
Republican Campaign Committees, 1968.....	19,489,416	18,1

See footnote at end of table

## COMMITTEES THAT REPORTED NATIONAL-LEVEL CAMPAIGN SPENDING IN 1968—Continued

[Rounded to nearest dollar]

	Receipts	Expenditures
<b>SUPPORTING THE REPUBLICAN CANDIDATES</b>		
<b>Standing Committees:</b>		
Committee for a Republican Congress (D.C.)	5,000	0
Committee for Forward-Looking Republicans (D.C.)	0	73
Committee for Republican Research (D.C.)	7,489	7,656
National Federation of Republican Women (D.C.)	68,183	68,147
National Republican Congressional (D.C.)	2,878,915	2,904,612
National Republican Senatorial (D.C.)	832,986	857,658
Republican Campaign Committee (D.C.)	2,061,943	2,434,762
Republican Candidates Committee (D.C.)	7,800	0
Republican Congressional Boosters Club (D.C.)	800,352	1,298,483
Republican National Committee (D.C.)	2,541,528	3,937,527
Republican National Finance Operations (D.C.)	1,008,887	1,051,979
Republicans for Progress (D.C.)	9,838	8,847
Republican Standing Committees, 1968	10,223,921	11,568,844
Total, Republican Campaign and Standing Committees, 1968 Total as reported	29,713,337	29,592,832
Internal Transfers	—150,000	—150,000
Republican Campaign and Standing Committees, 1968, adjusted	29,563,337	29,442,832
<b>WALLACE CAMPAIGN</b>		
Reported	6,973,745	7,242,896
Grand total, Democratic, Republican and Wallace	50,682,759	49,263,443

<sup>1</sup> Separate headquarters of the same committee in the same city filed a separate report.  
<sup>2</sup> Estimate based on their report which was inconsistent.  
<sup>3</sup> Includes \$2,800,000 which the Committee reported was "received constructively" and "disbursed constructively by the Committee."  
<sup>4</sup> Money transferred from 1 reporting committee to another and recorded as a receipt and an expenditure by both committees. Duplications of this kind add up to this figure.  
<sup>5</sup> The Wallace report included no "Under \$100" contributions for part of the period covered. Actual receipts would therefore be higher than the total reported.

## WALLACE LETTER

In a letter dated Oct. 24, 1968, accompanying Wallace's first report, his national campaign directors said: "... Governor Wallace has no campaign committee or committee-like organization functioning on his behalf as do the Presidential candidates of the Republican and Democratic parties. Campaign contributions have been received and disbursed in his behalf by duly authorized agents. Legal counsel advises that the Corrupt Practices Act of 1925, as amended, is not applicable to his candidacy for the President of the United States . . ."

## RECEIPTS AND SPENDING REPORTED IN 1968 BY SENATE CANDIDATES

Each candidate for the U.S. Senate is required by law to file with the Secretary of the Senate both pre- and post-election reports of his personal campaign receipts and expenditures. Failure to file through negligence subjects a candidate to a \$1,000 fine or imprisonment for one year or both, according to the Federal Corrupt Practices Act of 1925. Willful failure to file is punishable by a \$10,000 fine or two years imprisonment or both.

Following is a state-by-state chart showing candidates' total personal receipts and expenditures plus reported figures for committees working in behalf of a single candidate. Committees working for candidates were not required to file with Congress unless they were working in more than one state or were a breach of a national group other than a political party. Most candidates had purely local committees working in their behalf and many indicated so in their personal reports. Since such committees operated in only one state, however, they were not required to report federally and only a few did so. The bulk of Congressional campaign expenditures are channeled through such committees and thus never reported nationally.

Candidates report their personal expenditures in two parts. Expenditures which need not be reported individually are: charges made by a state for an individual's candidacy, such as filing fees; any personal transportation costs or meals; stationery, postage, writing or printing costs (except for use in newspapers or on billboards); distribution of letters or circulars and telephone costs.

These expenditures are not limited and a single sum is reported for all. . expenditures must be itemized and are limited by law according to the n voters in the candidate's state (three cents for each voter in the last S election) and must not exceed \$25,000. Total personal spending in the cha includes both itemized and nonitemized expenditures, since numerous l in the law make the distinction relatively meaningless.

Candidates are not required to report primary election expenses. Acc a candidate who was unopposed in the general election may report no re expenditures.

## HOUSE/SENATE RECEIPTS AND EXPENDITURES

	Personal		Comm
	Receipts	Spending	Receipts
<b>Wisconsin:</b>			
1 Stalbaum (Democrat).....	\$15,917	\$16,067	
Schadeberg (Republican).....	None	None	
2 Kastenmeier (Democrat).....	3,445	1,973	
Murray (Republican).....	None	990	
3 Gunderson (Democrat).....	1,200	3,277	
Thomson (Republican).....	2,740	2,817	
4 Zablocki (Democrat).....	200	529	
McColough (Republican).....	95	135	
5 Reuss (Democrat).....	None	None	
Dwyer (Republican).....	None	200	
6 Race (Democrat).....	50	100	
Stanger (Republican).....	535	684	
Balthazor (Conservative).....	2,195	2,236	
7 Dohi (Democrat).....	5,862	5,771	
Laird (Republican).....	3,500	3,597	
8 Nixon (Democrat).....	None	17	
Byrnes (Republican).....	3,605	1,958	
9 Baumann (Democrat).....	None	440	
Davis (Republican).....	1,240	764	
10 Hirsch (Democrat).....	1,610	1,794	
O'Kanski (Republican).....	None	None	
<b>Wyoming:</b>			
Al Linford (Democrat).....	None	None	\$12,874
Wold (Republican).....	None	58	(?)
<b>Puerto Rico:</b>			
Al Cordova-Diaz (N.P.).....	2,100	337	
Polanco-Abreu (P.D.).....	None	None	(?)

<sup>1</sup> No post-election report filed.

<sup>2</sup> Candidate indicated existence of a committee working in his behalf, but did not report its receipts or

Note: Total spending figures include both limited and unlimited expenditures. All amounts are round nearest dollar. For full names of House candidates and a report of the vote they actually received, see "Com of the 1968 Elections by Congressional District," pt. of the June 6, 1969, CQ Weekly Report.

## SENATE RECEIPTS AND EXPENDITURES

	Personal		Comm
	Receipts	Spending	Receipts
<b>Alabama:</b>			
Allen (Democrat).....	\$28,685	\$29,990	
Hooper (Republican).....	19,344	35,154	
Schwenn (National Democratic Party of Alabama).....	200	238	
<b>Alaska:</b>			
Gravel (Democrat).....	14,803	10,387	
Rasmuson (Republican).....	None	2,780	
Gruening (write-in).....	None	None	(?)
<b>Arizona:</b>			
Elson (Democrat).....	None	None	
Goldwater (Republican).....	None	None	
<b>Arkansas:</b>			
Fulbright (Democrat).....	None	None	
Bernard (Republican).....	6,000	6,000	
<b>California:</b>			
Cranston (Democrat).....	None	None	(?)
Rafferty (Republican).....	7,610	21,948	
Jacobs (Peace and Freedom).....	(?)	(?)	(?)
<b>Colorado:</b>			
McNichols (Democrat).....	12,456	24,124	(?)
Dominick (Republican).....	17,685	18,271	
<b>Connecticut:</b>			
Ribicoff (Democrat).....	5,000	5,000	
May (Republican).....	1,000	1,030	(?)

See footnote at end of table



## SENATE RECEIPTS AND EXPENDITURES—Continued

	Personal		Committee	
	Receipts	Spending	Receipts	Spending
<b>Florida</b>				
Collins (Democrat).....	29,630	29,630		
Garney (Republican).....	22,125	21,232		
<b>Georgia</b>				
Talmadge (Democrat).....	None	None		
Patton (Republican).....	15,430	16,238	(1)	(1)
<b>Hawaii</b>				
Inouye (Democrat).....	8,580	4,673		
Thorsen (Republican).....	8,438	12,295		
Lee (Peace and Freedom).....	(2)	(2)	(1)	(1)
<b>Idaho</b>				
Church (Democrat).....	7,135	12,660		
Hansen (Republican).....	None	None	(1)	(1)
<b>Illinois</b>				
Clark (Democrat).....	None	None	\$355,016	\$377,915
Dirksen (Republican).....	117,793	136,454		
Fisher (Socialist Labor Party).....	214	214		
<b>Indiana</b>				
Bayh (Democrat).....	None	3,000	(1)	(1)
Ruckelshaus (Republican).....	None	None	115,520	105,272
<b>Indiana</b>				
Malcolm (Prohibition).....	(2)	(2)	(1)	(1)
Lovitt (Socialist Workers Party).....	(2)	(2)	(1)	(1)
<b>Iowa</b>				
Hughes (Democratic).....	24,000	24,038	(1)	(1)
Stanley (Republican).....	974	17,262		
Higens (Prohibition).....	5	38		
<b>Kansas</b>				
Robinson (Democratic).....	7,500	9,735	(1)	(1)
Dole (Republican).....	None	None	(1)	(1)
Hyskell (Prohibition).....	None	None		
<b>Kentucky</b>				
Paden (Democratic).....	None	None	(1)	(1)
Cook (Republican).....	5,507	6,331		
Dison (Independent).....	(1)	(1)	(1)	(1)
<b>Louisiana</b>				
Long (Democratic).....	2,182	2,182		
No candidates.....				
<b>Maryland</b>				
Brewster (Democratic).....	37,595	34,108		
Mathias (Republican).....	None	None	115,299	94,535
Mahoney (Independent).....	345	15,449		
<b>Missouri</b>				
Eagleton (Democratic).....	22,485	23,341		
Curtis (Republican).....	None	2,223	(1)	(1)
<b>Nebraska</b>				
Bibie (Democratic).....	7,358	15,338		
Fike (Republican).....	24,772	28,241		
<b>New Hampshire</b>				
King (Democratic).....	None	None		
Cotton (Republican).....	None	50	(1)	(1)
<b>New York</b>				
O'Dwyer (Democratic).....	None	24,778	(1)	(1)
Javits (Republican-Liberal).....	None	None	433,909	402,262
Buckley (Conservative).....	141,161	141,161		
Emanuel (Socialist Labor Party).....	4,697	3,988	(1)	(1)
Garza (Socialist Workers Party).....	50	50		
Ferguson (Peace and Freedom).....	(2)	(2)	(1)	(1)
<b>North Carolina</b>				
Ervin (Democratic).....	20,932	17,076	10,000	9,889
Somers (Republican).....	7,243	7,473		
<b>North Dakota</b>				
Lashkowitz (Democratic).....	None	450		
Young (Republican).....	2,430	3,954		
Mutch (Independent).....	(1)	(1)	(1)	(1)
<b>Ohio</b>				
Gilligan (Democrat).....	None	None		
Saxbe (Republican).....	20,962	20,962	(1)	(1)
<b>Oklahoma</b>				
Monroney (Democrat).....	45,023	49,378		
Bellmon (Republican).....	29,994	29,994		
Washington (American).....	1,205	1,198		
<b>Oregon</b>				
Morse (Democrat).....	61,672	None	(1)	(1)
Packwood (Republican).....	None	None	420,688	419,723
<b>Pennsylvania</b>				
Clark (Democrat).....	500	500	(1)	(1)
Schweiker (Republican).....	None	5,736	(1)	(1)
Gaydos (Constitution or Constitutional).....	45,484	45,484		
Perry (Socialist Labor Party).....	73	63		
Chertov (Socialist Workers Party).....	None	105		

See footnote at end of table

## SENATE RECEIPTS AND EXPENDITURES—Continued

	Personal		Committee	
	Receipts	Spending	Receipts	Spending
South Carolina:				
Hollings (Democrat).....	None	5,600	( <sup>1</sup> )	( <sup>1</sup> )
Parker (Republican).....	1,097	1,097		
South Dakota:				
McGovern (Democrat).....	None	None	( <sup>1</sup> )	( <sup>1</sup> )
Gubbrud (Republican).....	4,000	4,000	( <sup>1</sup> )	( <sup>1</sup> )
Utah:				
Weilenmann.....	6,877	6,250		
Bennett (Republican).....	11,062	12,017		
Phillips (Peace and Freedom; also Peace Freedom Alternative) <sup>2</sup> .....	262	251		
Vermont:				
Asken (Republican).....	None	None		
No candidates.....				
Washington:				
Magnuson (Democrat).....	230,252	263,000		
Metcalf (Republican).....	None	593	( <sup>1</sup> )	( <sup>1</sup> )
Hogansauer (New Party).....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
Leonard (Socialist Workers Party).....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
Wisconsin:				
Nelson (Democrat).....	None	None	91,256	90,000
Leonard (Republican).....	None	None	( <sup>1</sup> )	( <sup>1</sup> )

<sup>1</sup> Candidate indicated existence of a committee working in his behalf, but did not report its receipts or expenditures.

<sup>2</sup> No post-election report filed.

<sup>3</sup> No report available.

Note: Total spending figures include both limited and unlimited expenditures. All amounts are rounded off to the nearest dollar. For full names of House candidates and a report of the vote they actually received, see "Complete Returns of the 1968 Elections by Congressional District," pt. 1 of the June 6, 1969, CQ Weekly Report.

## CAMPAIGN SPENDING: RECORD \$42.4 MILLION IN 1970

Political spending during the 1970 mid-term elections climbed to a non-presidential year record of \$42,386,639, according to reports filed at the national level.

This represented an increase of \$16,901,121—or 67 percent—over the \$25,395,518 reported in 1966, the last non-presidential election year.

The cost of national-level politics of \$42.4-million in 1970 fell only \$5.4-million short of the \$48.1-million figure reported for both presidential and congressional elections in 1964. The record for a presidential year was \$70-million in 1968. (*Spending in the non-presidential campaign years of 1954, 1958, 1962, 1966, 1970*, chart p. —.)

The 1970 figures included a record of \$14,368,085 in reported spending by congressional candidates—a boost of 51.6 percent over the previous high of \$9,479,889 reported in 1964.

National-level political committees reported spending \$28,018,604 during 1970—an increase of almost 48 percent over the previous mid-term election high of \$18,979,234 in 1966.

The 1970 figures were taken from reports to the Clerk of the House and the Secretary of the Senate. The totals, compiled by the Citizens' Research Foundation of Princeton, N.J., represented only a small fraction of actual political spending.

Many congressional candidates did not report funds handled by their campaign committees. Furthermore, expenditures in primary elections and by committees operating within a single state need not be reported under federal law.

Although a large percentage of the \$42.4-million reported in 1970 went into congressional races, several million dollars was used for staff and operations of the Republican and Democratic national committees. In addition, a small portion of the reported spending went into races for Governor and other state-level offices.

## References

*Political spending in 1969, 1970 Weekly Report p. 2200; spending in 1968, special report of Dec. 5, 1969; election reform bills, 1970 Weekly Report p. 709, 1043.*

## PARTY SPENDING

Republican committees outspent Democratic committees in 1970 by a margin of almost 3-1, according to the reports. Seventeen Republican committees spent \$12.7-million while 18 Democratic committees spent \$4.3-million.

The spending total for Republican committees was the highest ever for a non-presidential campaign year, topping the previous record of \$7,863,092 in 1966 by \$4,839,123.

Although more Democratic committees were active in 1970 than in 1966, 19 compared to 8, the total Democratic spending dropped from \$4,282,007 to \$4,263,722—a decrease of \$18,285.

*Congressional Reports*

Democratic candidates for the House and Senate spent more than Republicans in 1970, according to filed reports. Democratic candidates reported spending \$5,653,648 compared to \$5,968,080 reported by Republican candidates.

Third-party and independent candidates reported spending \$1,746,307 on congressional campaigns, an all-time record. The total was ballooned in 1970 by the candidacies of Sen. James L. Buckley (Cons-R N.Y.), who reported spending \$1,141,373, and Sen. Harry F. Byrd Jr. (Ind Va.), who reported \$383,060 in expenditures.

## OTHER COMMITTEE REPORTS

Organized labor spent its highest sum ever for a mid-term election—\$5.2-million. But for the first time since 1958, Republicans spent more than the combined total of both Democrats and organized labor. Republican spending topped the alliance by \$3.2-million in 1970.

Those labor committees recording the largest spending were the Committee on Political Education, AFL-CIO, \$913,365; the Machinists' Non-Partisan Political League Education Fund, \$310,708, and Machinists' Non-Partisan Political League General Fund, \$260,992.

Miscellaneous political committees, their names often giving little clue to their actual intent, spent \$5.8-million, more than double their 1966 spending. (1966 spending, in turn, was more than double the 1962 total.)

The number of miscellaneous committees more than doubled from 1966 to 1970. Ninety-eight miscellaneous committees in 1970 included 14 ad hoc peace groups, 56 business and professional groups and 28 other groups of all political ideologies.

Peace groups' spending totalled \$624,113. The Universities' Anti-War Fund spent the largest amount, \$229,468, and the Washington, D.C., Peace Candidates Fund, the least, \$990.

Among business and professional groups were four fast-growing dairy associations established in 1968-69 which reported spending \$5.1-million in 1970. The largest is the Trust for Agricultural Political Education (TAPE); the second-largest, Trust for Special Political Agricultural Community Education (SPACE). The Agricultural and Dairy Education Political Trust (ADEPT) and the Agricultural Cooperative Trust (ACT) are smaller groups.

Those four donated \$302,001 to Senate and House candidates. (Sometimes contributions went to opposing candidates.) Twelve elected Democratic Senators received \$44,538 during their campaigns, according to the group's reports. They are Hubert H. Humphrey (Minn.), \$10,300; William Proxmire (Wis.), \$7,160; Edmund S. Muskie (Maine), \$6,626; Adlai E. Stevenson III (Ill.), \$5,000; Lloyd Bentsen (Texas), \$4,500; Vance Hartke (Ind.), \$2,500; Harrison A. Williams Jr. (N.J.), \$2,500; Gale W. McGee (Wyo.), \$2,000; Philip A. Hart (Mich.), \$1,250; John V. Tunney (Calif.), \$1,200; Harry F. Byrd Jr. (Va.), \$1,100, and Birch Bayh (Ind.), \$500. Byrd was elected as an independent but caucuses with the Democrats.

Three elected Republican Senators received \$25,000. They were Senators Hugh Scott (Pa.), \$10,000; Ted Stevens (Alaska), \$5,000, and Winston L. Prouty (Vt.), \$10,000. This year, the dairy groups have reported giving \$85,000 to the Republican party.

Among the top five spenders of the other 28 political groups, "new priority" groups were first and fifth. The National Committee for an Effective Congress, an independent citizens' group, reported spending \$695,501. The Council for a Livable World spent \$214,626.

Between them were the Conservative Victory Fund, which spent \$412,852; the American Conservative Union, with \$335,716, and the Christian Nationalist Crusade with \$297,865.

## REPUBLICAN SPENDING

Increased Republican spending during 1966 was followed by substantial party gains in the elections in that year. Smaller Republican gains followed even larger Republican spending in 1970. John T. Calkins, executive director of the National Republican Congressional Campaign Committee, said this did not prove spending is ineffective. "Spending is as effective as ever, but it's wasted on 50 percent of the bases in any political campaign. Given enough money, a campaign will cover all the bases—the 50 percent where money is wasted, and the 50 percent where it counts," he said. Republican disappointments in 1970, he said, were caused by other factors.

Increased use of television and radio accounted for much of the spiraling costs of political campaigning. Federal Communications Commission statistics showed candidates in 1970 spending \$59.2-million for political broadcast advertising—\$19.1-million more than the total spent by non-presidential candidates in 1968.

A close House race, with costs averaged between a metropolitan district and a rural district, could cost \$100,000 to \$150,000, including broadcast costs, Calkins said.

Republican congressional campaign committee sources said the group had opposed S 3637, the campaign spending bill President Nixon vetoed Oct. 12, 1970. The bill would have limited general election campaign broadcast spending to 7 cents per vote cast in the previous election.

Campaign reform proposals this year include S 382, the Federal Elections Campaign Act of 1971, which would limit campaign spending to 5 cents per eligible voter for broadcast media and 5 cents per voter for non-broadcast media in both primary and general elections. The bill was reported in the Senate on June 21; the Republican congressional committee has it under study. (*Weekly Report* p. 1076.)

Although the committee has raised more than half its \$1.9-million annual budget from direct mailing and the Republican fund-raising dinner in March, Calkins said pressure was mounting for new ways to raise money. Widespread fund solicitation by mail is less efficient as printing and postage costs increase, he said. Besides, he added, mail contributions are 45 percent below expectations.

## DEMOCRATS' FINANCIAL OUTLOOK

The Democratic National Committee has a \$9.3-million debt. But, said Treasurer Robert Strauss, it no longer borrows to meet \$150,000 in monthly operating expenses.

The party, he said, "has \$700,000 on hand to carry us into the (1972) convention and a half-million in the dinner account." On spending, he said, "An all-out 1972 campaign is the understatement of the year."

Herbert Alexander, director of the Citizens' Research Foundation, has estimated that a contest for the Democratic nomination among five or six candidates, spending at the pre-convention levels of the McCarthy vs. Kennedy and Nixon vs. Rockefeller efforts, could drive pre-convention costs to \$75-million.

Candidates for federal office need not report pre-nomination spending.

## 1970 DEMOCRATIC AND REPUBLICAN RECEIPTS, SPENDING

(Following are receipt and expenditure totals for Republican and Democratic committees during 1970)

	Receipts	Expenditures
<b>DEMOCRATS</b>		
Democratic National Committee	\$1,575,076	\$1,585,81
National Committee Affiliates		
Commission on Party Structure and Delegate Selection	18,568	23,37
1970 Democratic National Gala Committee (D.C.)	164,239	164,23
1970 Democratic National Gala Committee (Fla.)	14,460	4,26
Let It Be Committee	3,618	3,19
National Democratic Policy Council	17,350	62,00
Project '70 Committee	7,980	6,50
Reform Democratic National Committee	21,856	18,54
Victory '72 Committee	5,000	
Young Democratic Operating Committee	0	3,85
Standing Congressional Campaign Committees		
Democratic Congressional Campaign Committee	441,870	400,76
Democratic National Congressional Committee	16,688	207,52
Democratic Senatorial Campaign Committee	505,923	628,67
Democratic Study Group 1970 Campaign Fund	182,793	146,38

## 1970 DEMOCRATIC AND REPUBLICAN RECEIPTS, SPENDING—Continued

[Following are receipt and expenditure totals for Republican and Democratic committees during 1970]

	Receipts	Expenditures
<b>Standing Committees.</b>		
Committee for Ten.....	86,883	87,674
Congressional Leadership for the Future.....	65,686	63,734
Committee for National Unity.....	64,685	15,201
Independent Citizens for Johnson and Humphrey (New York).....	0	0
The 1970 Campaign Fund.....	874,956	845,397
<b>Totals reported by Democratic Committees.....</b>	<b>4,088,642</b>	<b>4,267,722</b>
<b>Less Lateral Transfers to other committees.....</b>	<b>258,759</b>	<b>4,000</b>
<b>Total Adjusted Receipts and Expenditures.....</b>	<b>3,809,883</b>	<b>4,263,722</b>
<b>REPUBLICANS</b>		
<b>Republican National Committee.....</b>	<b>2,949,597</b>	<b>2,974,159</b>
<b>National Committee Affiliates:</b>		
Republican Campaign Committee.....	703,805	696,046
Republican National Finance Committee.....	2,541,886	2,980,308
Republican National Finance Operations Committee.....	286,228	553,306
<b>Campaign Committees:</b>		
Nixon-Agnew Campaign Committee.....	3,626	17,648
RN Associates.....	17,000	0
Republican Victory Committee.....	30,638	21,299
<b>Standing Congressional Campaign Committees:</b>		
National Republican Congressional Committee.....	2,491,500	2,774,520
National Republican Senatorial Committee.....	1,511,086	968,534
Republican Congressional Boosters Committee.....	874,774	1,288,238
Republican National Finance Advisory Committee.....	168,578	190,171
<b>Standing Committees:</b>		
Committee of Nine.....	500	5,912
Institute for Republican Studies.....	4,610	4,959
National Federation of Republican Women (Ann Arbor, Mich.).....	70,764	87,378
Republican Candidates Committee.....	2,550	2,550
Republican Dinner Committee.....	137,683	89,083
United Republican Finance Committee of San Mateo County.....	50,270	50,654
<b>Totals Reported by Republican Committees.....</b>	<b>11,842,555</b>	<b>12,702,215</b>
<b>Less Lateral Transfers to Other Committees.....</b>	<b>88,250</b>	<b>0</b>
<b>Total Adjusted Receipts and Expenditures.....</b>	<b>11,754,305</b>	<b>12,702,215</b>

Source: Citizen's Research Foundation.

## CAMPAIGN FINANCING—1954, 1958, 1962, 1966, AND 1970

[The table below shows reported campaign spending included in reports to the Clerk of the House for the midterm campaigns since 1954. Numbers on the committee line indicate the number of groups reporting.]

	1954	1958	1962	1966 <sup>1</sup>	1970 <sup>1</sup>
<b>Committee spending reported nationally:</b>					
Republican committees (number).....	27	14	11	21	17
Receipts.....	\$5,380,994	\$4,686,423	\$4,674,570	\$7,640,780	\$11,754,305
Expenditures.....	\$5,509,649	\$4,657,652	\$4,637,586	\$7,863,092	\$12,702,215
Percentage of total spending.....	53.5	53.7	39.4	41.5	45.3
Democratic committees (number).....	13	7	8	8	19
Receipts.....	\$2,168,404	\$1,733,626	\$3,699,827	\$4,055,310	\$3,809,883
Expenditures.....	\$2,224,211	\$1,702,605	\$3,569,357	\$4,282,007	\$4,263,722
Percentage of total spending.....	21.6	19.6	30.3	22.5	15.2
Labor committees.....	41	32	33	42	54
Receipts.....	\$1,882,157	\$1,854,635	\$2,112,677	\$4,262,077	\$5,290,822
Expenditures.....	\$2,057,613	\$1,828,778	\$2,305,331	\$4,289,055	\$5,235,173
Percentage of total spending.....	20.0	21.1	19.6	22.7	18.7
Miscellaneous committees.....	15	11	26	44	98
Receipts.....	\$517,804	492,710	\$1,313,959	\$2,123,868	\$5,603,790
Expenditures.....	\$514,084	\$486,430	\$1,271,214	\$2,545,080	\$5,817,484
Percentage of total spending.....	5.0	5.6	10.8	13.3	20.8
<b>Total.....</b>					
Receipts.....	\$9,949,359	\$8,767,394	\$11,801,033	\$18,082,015	\$26,458,800
Expenditures.....	\$10,305,567	\$8,675,465	\$11,783,488	\$18,979,234	\$28,018,604
<b>Congressional campaign spending reported:</b>					
Republicans.....	\$1,596,031	\$1,670,933	\$3,475,847	\$2,230,835	\$5,968,080
Percentage of spending.....	52.4	50.9	52.5	34.8	41.5
Democrats.....	\$1,436,576	\$1,600,117	\$2,950,552	\$4,081,685	\$6,653,648
Percentage of spending.....	47.2	48.7	44.9	63.6	46.3
3d party and independents.....	\$13,333	\$12,805	\$172,622	\$103,764	\$1,746,307
Percentage of spending.....	0.4	0.4	2.6	1.6	12.2
<b>Total congressional spending.....</b>	<b>\$3,045,940</b>	<b>\$3,283,855</b>	<b>\$6,620,627</b>	<b>\$6,416,284</b>	<b>\$14,368,035</b>
<b>Total reported campaign costs.....</b>	<b>\$13,351,507</b>	<b>\$11,959,120</b>	<b>\$18,404,115</b>	<b>\$25,395,518</b>	<b>\$42,368,639</b>

<sup>1</sup> The 1966 and 1970 expenditure figures are "less transfers"—i.e., lateral fund transfers between national-level committees have been deducted.

Source: Reports filed with the Clerk of the House and Secretary of the Senate.

### LOOPHOLES IN THE CORRUPT PRACTICES ACT OF 1925

The basic federal law regulating campaign spending and requiring disclosure of receipts and expenditures by congressional candidates is the Corrupt Practices Act of 1925—a law filled with loopholes.

The Corrupt Practices Act does not require reports of contributions or expenditures in either presidential or congressional primary campaigns or in connection with campaigns for a party's presidential nomination—even though these efforts involve millions of dollars of expenses.

Though the law requires Senate and House candidates to report all spending made with their "knowledge or consent," most candidates interpret this to cover only their so-called "personal" campaign expenditures. Many candidates report they had no expenditures or spent just a few hundred dollars on their campaigns—only a fraction of their real campaign costs.

Having reported no spending or nominal sums as their personal spending, the great majority of candidates say the committees working in their behalf did so without their "knowledge or consent." Those committees, in turn, are not required to file because the Corrupt Practices Act specifically excludes political committees which work within a single state.

National-level political committees can hide their transfers of campaign money to candidates by simply reporting transfers of gross sums to state committees which are allied with the national group. The state committees, in turn, transfer the money to individual candidates, but the names of the recipients never appear on the nationally filed reports. This practice is traditional for labor union political funds and has more recently been adopted by groups such as the American Medical Political Action Committee.

Political committees can hide the actual purposes of their reported expenditures by simply listing the purpose as "payment for professional services" or a similar phrase.

The actual identity of contributors can often be hidden by failing to give full names or giving addresses so incomplete that they make positive identification of the givers impossible.

The Corrupt Practices Act has never been enforced against congressional candidates. The Act stipulates fines of up to \$10,000, two years in prison, or both, for willful non-compliance. Although no congressional candidates have ever been prosecuted under the Act, in 1927 two Senators-elect were barred from taking their seats because of reports of excessive campaign spending. (*Congress and the Nation*, Vol. II, p. 443.)

Examination of reports filed with the Clerk of the House and the Secretary of the Senate revealed that 25 congressional candidates had failed to file financial statements on 1970 campaign spending. None of these was elected.

A spokesman for the Justice Department said on June 30 that the department was aware of the apparent violations. The spokesman had no comment on whether prosecution was planned.

The Justice Department took no action on a 1969 report of 107 candidates' failure to file financial statements from the 1968 campaign.

### BROADCAST SPENDING: NO ELECTION GUARANTEE

Heavy spending for political broadcasts did not guarantee election success for either Republican or Democratic candidates for Congress or Governor in 1970.

Incumbency appeared to be a more important factor in winning than a flood of dollars for radio and television, according to an analysis of the Federal Communications Commission's June 1971 "Survey of Political Broadcasting" covering the 1970 elections.

The FCC report shows that Republicans outspent Democrats on general election broadcasts for campaigns at all levels with total outlays of \$18,531,967 compared to \$14,257,198 for Democrats.

Republican Senate candidates spent \$4.4-million on broadcasts for their general election campaigns compared to \$4.2-million spent by Democratic candidates. But Republicans won only 11 of the 35 contested Senate seats. Democrats took 22, one was won by a Conservative and one by an independent.

Republicans also outspent Democrats \$5-million to \$3.7-million on political ads in general election gubernatorial contests. Yet the Republicans won only 13 governorships compared to 22 for the Democrats.

In House general election campaigns, Republicans spent \$2.1-million on broadcast advertising, and Democrats spent \$1.8-million. But Democrats won 255 House seats, and Republicans won 180 seats.

This is not to imply, however, that there is no correlation between broadcast spending and political success. Party labels aside, a majority of those candidates who spent more than their general election opponents in 1970 won their races, as the following chart shows. The second chart shows the success of incumbents.

	Winners		Losers	
	Number	Percent	Number	Percent
Candidates outstanding opponents:				
Governor.....	19	54.3	16	45.7
Senate.....	20	57.1	15	42.9
House <sup>1</sup> .....	229	64.7	125	35.3
Candidates who were incumbents:				
Governor.....	17	70.8	7	29.2
Senate.....	24	80.0	6	20.0
House.....	379	96.7	13	3.3

<sup>1</sup> The FCC survey reported broadcast spending in only 354 House races in 1970.

In primary campaigns, Democratic candidates more than doubled Republican expenditures for political broadcasting. The Democrats spent a total of \$11,708,776 compared to \$5,129,918 spent by Republicans.

**Over-all Spending.**—A total of \$50,292,164 was spent by all candidates in 1970. The Democrats topped the Republicans by more than \$4-million.

In totals for both primary and general election campaigns, Democrats spent \$25,965,974 while Republicans spent \$21,661,780. In addition, candidates from other parties spent \$2,664,410.

The FCC's figures for 1970 do not include, as they have in past years, the 15-percent commissions paid to advertising agencies which arrange political broadcasts. If commissions are added, the 1970 spending total becomes \$59.2-million. (*Chart, p. 1629*)

The 350-page survey was submitted to Congress by FCC Chairman Dean Burch on June 16 when he testified before the House Subcommittee on Communications and Power.

Based on a nationwide survey of television and radio station receipts, the report provides the most detailed information on political broadcast spending since the FCC began compiling such figures in 1960. A total of 696 television stations, nearly 100 percent, and 4,027 radio stations, or 94 percent, responded to the FCC survey.

For the first time, the report lists expenditures by individual candidates for Senator, Representative, Governor and lieutenant governor. Spending on announcements and program time in both primary and general election campaigns is revealed, as well as the number of minutes of free time granted candidates by local stations.

The details on radio and television spending constitute perhaps the most comprehensive information available on the actual costs of statewide campaigns for Senator and Governor. The federal campaign reporting laws applying to candidates for Congress are so full of loopholes many candidates report nothing, or only a fraction of their actual political outlays. Primaries are not covered by federal law. (*Reports by Senate candidates, chart p. 1626*)

In many Senate races, radio and television costs are the most expensive part of the campaign.

**Breakdown of Figures.**—The report showed that more money was spent by gubernatorial candidates than for any other office. Including primary and general elections, gubernatorial candidates spent \$13,950,572 of the \$50.3-million total.

Candidates for all other state and local offices spent a total of \$15,553,176. Senatorial candidates spent \$13,631,960 while candidates for the House of Representatives spent \$5,185,388. Candidates for lieutenant governor spent \$1,971,068.

Of the \$50.3-million, \$47.9-million was spent on spot announcements of 60 seconds or less while only \$2.4 million was for program time of longer duration, the report revealed.

Most of the paid program time was on radio rather than television. In the general election, Democratic candidates purchased 1,212 hours of non-network radio program time at a total cost of \$89,768. Republicans spent \$69,157 for 901 hours.

Republican candidates bought more non-network television program time, however, spending \$574,139 for 613 hours compared to 469 hours for \$460,507 by Democrats.

The FCC's figures on network television expenditures show that Republicans outspent Democrats in the general election, buying 85 minutes for \$161,259 compared to 50 minutes for \$111,258 by the Democrats. Republicans also spent \$5,562 for six minutes in primary campaigns.

On network radio, both parties bought a total of 45 minutes. However, Democrats spent \$10,083 compared to only \$10,084 by Republicans. In addition, Republicans purchased \$12,357 worth of spot announcements on network radio, compared to none by Democrats.

**Free Time.** Sustaining, or free, broadcast time was granted candidates by 396 different television and 1,341 radio stations. Free time generally was provided to opposing candidates in approximately equivalent amounts in accordance with Section 315(a) of the Communications Act of 1934, the so-called "equal time" provision.

In Senate elections, Republicans were granted 8,363 minutes of free non-network television time compared to 8,120 minutes for Democrats. Republican candidates also got more free non-network radio time than Democratic opponents, 25,743 minutes to 18,774 minutes.

In House general election races, Democrats got slightly more free television time, 12,107 minutes compared to 11,711 for Republicans. But GOP candidates again were given more free radio time, 42,194 minutes to 34,536 for Democrats.

In general election campaigns, Democrats running for Governor appeared on television for a total of 8,907 free minutes, while Republicans got 13,900 minutes. On radio, Democrats had 27,368 minutes without charge, while Republican candidates had 20,823.

Network television stations granted a total of 596 free broadcast minutes during 1970 general elections and 520 minutes during primaries. However, much of this time was on interview programs such as *Meet the Press*, *Face the Nation* and *Issues and Answers*, which are not subject to the equal time provision.

Democrats were granted 380 free minutes in general campaigns while GOP candidates got 218 minutes. In primaries, Democrats got 384 network minutes compared to 136 for Republicans.

The largest amount of free network time in the general election went to Gov. Ronald Reagan (R Calif.), who got 54 minutes compared to 39 for his Democratic opponent, Jess Unruh.

Adlai E. Stevenson III (D Ill.) got 40 minutes while his Republican opponent Ralph T. Smith was given 32 free minutes.

In Ohio, Robert Taft Jr. (R) appeared free of charge for 24 minutes while Howard Metzenbaum (D) got 22 minutes.

And in New York, James L. Buckley (Cons-R) got 14 minutes compared to 20 minutes for Charles E. Goodell (R) and 14 minutes for Richard L. Ottinger (D).

#### BACKGROUND

Broadcast spending in U.S. elections has increased markedly since 1960, the first year figures were tabulated by the FCC. (*Chart, p. 1629*)

The 1970 total of \$50.3-million (or \$59.2-million including commissions) was the highest yet for a nonpresidential election year representing an increase of \$23.1-million, or 85 percent, over 1966, the last nonpresidential year. A total of \$27.2-million (or \$30-million with commissions) was spent in 1966 by candidates in both primary and general campaigns.

In 1968, congressional and gubernatorial spending totaled \$40.2-million, not including presidential spending of \$18.7-million.

The formula of large television and radio expenditures on a carefully prepared "image" campaign appeared to be due new evaluation after the 1970 elections.



In the 1968 presidential year, Roger Allen of REA Productions Inc. in New York, and one of Richard Nixon's top television producers, was quoted as saying: "This is the beginning of a whole new concept. This is it. This is the way they'll be elected forevermore. The next guys will have to be performers."

But the majority of candidates handled by top media consultants in 1970 lost. (1970 *Almanac* p. 1098)

After the 1970 elections, Robert Allen, another REA Productions official, said: "There were no races where media management made the difference. The ones that were going to win in this election were won without any help."

During and after the 1970 campaigns, considerable reaction against the deluge of electronic electioneering came from political commentators, the public and even some politicians.

"A two-dimensional, 18-inch-high candidate," said Sen. Gaylord Nelson (D Wis.) in Senate debate, "presented with all the candor of a laundry product or a dancing dog act does little to assure a concerned public of the relevance and responsiveness of the political process in this country."

Frank Reynolds of the American Broadcasting Company and Nicholas Johnson of the FCC, among others, suggested that political spot commercials should be banned.

Media Studies. One difficulty in assessing the effectiveness of political broadcast advertising is that no one really knows what the public thinks about the massive media campaigns or whether voting behavior is influenced.

Very little evidence has been gathered through research by social scientists in the field. Many persons presume that in politics name recognition automatically means votes, "image" ads are better than "issues" ads, spot announcements reach the widest audience and the more ads the better.

However, there is no proof that these presumptions are correct, and some recent research tends to indicate that they may be misleading.

One project in the 1970 elections was conducted by a group of researchers in Wisconsin and Colorado. Lawrence Bowen, Charles K. Atkin and Kenneth G. Shelukopf, all of the Mass Communications Research Center at the University of Wisconsin, and Oguz B. Nayman of Colorado State University, presented their findings in a paper entitled "How Voters React to Electronic Political Advertising." The paper was read at the annual conference of the American Association for Public Opinion Research in Pasadena, Calif., in May 1971.

The research team conducted pre-election telephone interviews with 512 voters in Wisconsin and Colorado to assess their reactions to televised political advertising aired during the 1970 gubernatorial campaigns. They found that voters tended to see a greater number of ads for the candidate who was advertised most heavily, but they gave closer attention to those ads that entertained them or fulfilled their needs for information.

Viewers tended to learn more about their favored candidate than his opponent. But only one-third of the partisan respondents reported that their preferred candidate's ads strengthened their intention to vote for him. Almost as many indicated that the opposing candidate's ads produced a negative reaction.

These results suggested that a limited number of high-quality, substantively informative broadcast advertisements may be more effective than a saturation presentation of superficial image-oriented spot announcements.

Another study of the 1970 elections was conducted by Decision Making Information (DMI), a Los Angeles political consulting firm, under a research grant from the American Medical Political Action Committee.

DMI conducted post-election surveys of 4,520 voters in 10 states in the four days immediately following the November 1970 elections.

The survey showed that 72 percent of those questioned recalled seeing a political advertisement on television during the campaigns, but only 41 percent remembered radio ads.

Voters were then asked to identify the most important things they had learned about the candidates during the campaigns and to name the source of that information.

Although nearly three out of four could recall television ads, only 23 percent said it was the source of their most important information. Only 2 percent of the sample recalled important candidate information from radio.

Voters were asked if they received their most important information in an advertising format or a news format. A total of 30 percent said newscasts or

news articles were their most important source, 32 percent named advertising and 22 percent claimed to have received it from both news and advertising.

Vincent P. Barabba, chairman of the board of Decision Making Information, told a March 1971 seminar of the American Association of Political Consultants:

"In my judgment, mass media have been misused in political campaigns—perhaps to the same extent that they have been misused in commercial business campaigns and certainly with at least the same frequency. There are some good examples of effective mass media utilization . . . but they are more likely to be exceptions than the rule."

Barabba also said, "The campaign consultant of the 1970s will help determine the minimum amount of campaign funds required for the campaign to reach its maximum vote potential."

**Proposed Legislation.**—The Federal Election Campaign Act of 1971 (S 382 S Rept 92-229), reported June 21 by the Senate Rules and Administration Committee, would place a limit of 5 cents on broadcast spending and 5 cents on non-broadcast media spending multiplied by the voting age population. Any unspent portions of funds authorized for one type of media could be spent on the other, which in effect would allow total broadcast spending as high as 10 cents times the voting age population.

In a Gallup Poll conducted after the elections in November 1970, 78 percent of those polled said they would favor a law which would limit the total amount a candidate could spend in his campaign. Only 15 percent were opposed and 7 percent had no opinion.

#### SENATE SPENDING

The 1970 Senate elections produced some of the most controversial and costly media campaigns in history. Candidates in many states saturated prime time television and radio with spot announcements designed to discredit their opponents and build favorable images for themselves. (Chart, p. 1626)

Broadcast expenditures in Senate elections totaled \$9.3-million in 1970 general election campaigns and \$4.4-million in primary races.

Republicans narrowly outspent Democrats in the general election, \$4.4-million to \$4.2 million. In primaries, Democratic contenders spent nearly \$1-million more than Republican candidates, \$2.6-million to \$1.7-million.

Candidates from other parties spent \$672,735 in general and \$1,842 in primary campaigns, the FCC reported.

Although winners outspent losers in 20 of the 35 Senate general elections, few absolute conclusions can be drawn about the effectiveness of broadcast spending.

In about half of the 20 races won by top spenders, two candidates' expenditures were so nearly equal that the difference in spending could not account for victory. And in 15 races candidates lost despite outspending their opponents amounts ranging up to \$218,000.

Many factors other than broadcast advertising helped determine the outcome of these elections. Incumbency, for example, was a factor in 30 Senate races, and incumbents won in 24 of them.

**Non-Incumbent Contests.**—Theoretically, the best test cases for the efficacy of media campaigns would be the five elections in which there were no incumbents. But the results of higher spending in these races were mixed.

In Delaware, Rep. William V. Roth Jr. (R) spent \$13,775 in winning easily over Jacob W. Zimmerman (D), who spent \$12,341, for the seat vacated by retiring Sen. John J. Williams, a four-term Republican. Roth's previous experience in the House was an obvious advantage in this election.

But in Florida, Rep. William C. Cramer (R) spent \$145,484 in the general election, only to lose to State Sen. Lawton Chiles (D) who spent only \$49,489. The contest was for the seat vacated by retiring Sen. Spessard L. Holland (D).

Chiles put slightly more than half of his broadcast funds into radio. He was one of the few candidates in the nation to spend more money on radio than on television. Chiles also utilized the media in other ways, such as a news-making 1,000-mile hike across the state to dramatize his lack of funds for television.

The retirement of Sen. Eugene J. McCarthy (D) in Minnesota led to a race between former Vice President Hubert H. Humphrey and Republican Rep. Clark MacGregor. MacGregor outspent Humphrey, \$172,011 to \$164,636. But Humphrey still won back a seat in the Senate where he served from 1949 to 1965.

In Ohio, Rep. Robert Taft Jr. (R) resisted a strong challenge by wealthy businessman Howard Metzenbaum (D), who spent \$242,246 in a losing general election battle for the seat being vacated by retiring Sen. Stephen M. Young (D).

Taft, whose family name already was a household word in Ohio, spent \$223,035 in the hard-fought contest.

Finally, in Texas, former Rep. Lloyd M. Bentsen Jr. (D 1948-55) defeated Rep. George Bush (R) for the seat held by Ralph W. Yarborough (D). Bentsen won over Yarborough in the primary. Bush outspent Bentsen in the campaign \$293,142 to \$174,999. However, Bentsen had spent \$218,608 in the primary, compared to \$128,405 by Yarborough, in a media campaign which made his name well-recognized throughout the state.

*Other Costly Races.*—Several other Senate general election campaigns were noteworthy for high expenditures which produced varying results.

In California, the Democratic challenger, Rep. John V. Tunney spent \$472,987, with about \$50,000 going to radio time, to defeat incumbent Sen. George Murphy (R), who spent \$400,731, including more than \$75,000 on radio.

In Illinois, Adlai E. Stevenson III, son of the late Democratic presidential candidate, outspent and defeated Senate appointee Ralph T. Smith (R). Stevenson spent \$261,573 compared to Smith's \$252,206. The Democratic challenger outspent the incumbent Smith on radio broadcasts, \$40,352 to \$9,730.

An expensive media blitz in Indiana by Republican Rep. Richard Roudebush failed to unseat Democratic incumbent Vance Hartke. Roudebush spent \$364,825 compared to Hartke's \$214,130.

In Missouri, State Attorney General John Danforth (R) spent \$228,475 in an unsuccessful attempt to capture the Senate seat held by Stuart Symington (D), who spent \$199,170.

One of the widest spending margins was in New Jersey, where Republican Nelson Gross lost despite spending \$391,462, or more than twice the \$173,057 spent by Democratic incumbent Harrison A. Williams Jr.

But the nation's most expensive general election campaign was in New York, where the three-way race between Republican incumbent Charles E. Goodell, Rep. Richard L. Ottinger (D) and Conservative James L. Buckley resulted in massive media expenditures on all sides.

Wealthy plywood heir Ottinger spent the most, \$641,151, compared to \$569,448 by Goodell and \$516,472 by Buckley, the ultimate victor.

Finally, Republican incumbent and Minority Leader Hugh Scott spent \$267,270 in a narrow victory over his Democratic challenger William G. Sesler, who spent only \$25,374. Despite spending more than 10 times as much as Sesler, Scott won by only 220,000 votes out of 3.6 million.

*Senate Primaries.*—Bitter intraparty rivalries in several primary elections led to heavy expenditures, including the highest total outlay by any Senate candidate in the nation for a single campaign, primary or general.

California industrialist Norton Simon (R) spent \$800,823, including more than \$251,000 on radio ads alone, in an unsuccessful effort to defeat incumbent Sen. George Murphy.

In California, the Democratic challenger, Rep. John V. Tunney, spent \$472,987, nomination over Rep. George E. Brown, who spent \$51,004.

Ottinger spent \$734,490 to win the New York Democratic primary over Rep. Richard McCarthy (\$2,100), Theodore C. Sorensen (\$85,204) and Paul O'Dwyer (\$25,974). This campaign was one of the most well-publicized in the nation, with accusations that the wealthy Ottinger was buying the right to oppose Goodell. During this campaign, candidate McCarthy performed such stunts as scuba diving in the polluted Hudson River and soaring over Central Park in a hot-air balloon. He was quoted as saying, "If I had Ottinger's money, I wouldn't have to do these things."

In Ohio, former astronaut John Glenn spent \$31,081 in losing the Democratic primary to Metzenbaum, who spent \$265,351. Taft spent \$151,346 in the Republican primary to defeat Gov. James Rhodes, who spent \$92,191.

#### GUBERNATORIAL SPENDING

Some of the most expensive races in the nation were those for statehouses, in which candidates for Governor and lieutenant governor spent a total of almost \$16-million.

Republicans outspent Democrats in general election gubernatorial campaigns, \$5-million to \$3.7-million. But Democrats spent more in primary contests, \$3.8-million to \$1.2-million. Other party candidates spent about \$104,000 in general and \$4,000 in primary campaigns. (Chart, p. 1628).

Of 35 general election gubernatorial races, only 19 were won by the candidate who outspent his opponents on radio and television.

Incumbents won 17 of 24 contests and lost seven. But four of the seven incumbents who were defeated outspent their opponents on broadcasting.

In Arkansas, Gov. Winthrop Rockefeller (R) spent a total of \$334,007 in primary and general campaigns but failed to hold the statehouse in the face of a challenge by Democrat Dale Bumpers, who spent \$194,007.

Idaho's Gov. Don Samuelson (R) spent \$38,825 in a losing battle with Democrat Cecil D. Andrus, who spent \$35,505.

Despite expenditures of \$80,548 by Nebraska Gov. Norbert T. Tieemann (R), the incumbent, he lost to Democrat J. J. Exon, whose outlays totaled \$20,128.

In South Dakota, Gov. Frank L. Farrar (R) was beaten by Richard F. Knapp (D), who spent only \$21,602 compared to \$47,995 by Farrar.

*Non-Incumbent Contests.*—In the 11 contests which had no incumbents, the effectiveness of high broadcast spending also was inconclusive. The top spenders lost in six races and won in five.

In Alabama, former Gov. George C. Wallace (D) spent a total of \$487,283 in winning a third term and a chance to keep his presidential aspirations alive. However, Wallace was outspent in the Democratic primary by Gov. Albert Brewer, who spent \$431,003 compared to \$306,073 by Wallace.

In Connecticut, Rep. Thomas J. Meskill (R) defeated Rep. Emilio Q. Daddario (D) in a close race. Meskill's broadcast spending total of \$94,717 was highest in the state, but Daddario actually outspent Meskill in the general election, \$78,972 to \$71,072.

In Georgia's Democratic primary, former Gov. Carl Sanders spent \$290,207 in losing to peanut farmer Jimmy Carter, who spent only \$170,238. Carter then spent another \$102,280 and won the governorship against Republican Hal Smit, who spent \$63,850.

In Minnesota, State Sen. Wendell R. Anderson (D) beat Attorney General Douglas M. Head (R) in the general election, although Anderson was outspent by Head, \$158,797 to \$176,379, respectively.

In Nevada, Mike O'Callaghan (D) won despite being outspent by Las Vegas businessman and Lt. Gov. Ed Fike. Fike spent \$80,785 compared to \$70,879 by O'Callaghan.

New Mexico's gubernatorial race was won by rancher Bruce King (D), who spent only \$26,302 in defeating his Republican opponent Pete V. Domenici, an Albuquerque attorney whose broadcast spending totaled \$47,826.

Former Rep. John J. Gilligan (D) spent \$507,539 in winning Ohio's governorship in a contest with state auditor Roger Cloud (R), who spent \$283,932, including more than \$86,000 in the Republican primary.

In Pennsylvania, millionaire industrialist Milton J. Shapp (D) spent \$175,947 in a close primary race, then spent another \$428,435 in defeating Lt. Gov. Raymond J. Broderick (R). Broderick actually outspent Shapp in the general election by more than \$56,000, however.

South Carolina's Lt. Gov. John C. West (D) was outspent by more than \$10,000 by Rep. Albert W. Watson (R), but still won the election. West spent \$106,298 compared to \$116,358 by Watson.

In Tennessee, Memphis dentist Winfield Dunn (R) spent \$197,106 in the general election campaign and defeated businessman John Jay Hooker (D), who spent \$180,071. However, Hooker spent nearly that much in the Democratic primary race, so his total spending of \$250,404 was greater than Dunn's \$223,338.

Wisconsin's gubernatorial race was a close one between Lt. Gov. Jack B. Olson (R), who spent \$161,236 in losing, and Democrat Patrick J. Lucey, who spent \$160,205. Lucey spent \$40,894 in the Democratic primary, however making his total outlay of \$201,090 greater than that of Olson, who spent only \$189 in the Republican primary.

In Florida, the highest broadcast expenditures were in the primary elections. State Sen. Reubin Askew won an upset victory over Earl Faircloth in the Democratic primary although Faircloth outspent Askew, \$121,119 to \$95,211.

In the Republican primary, millionaire Jack Eckerd spent \$191,580 in an unsuccessful attempt to defeat incumbent Gov. Claude Kirk. Askew who defeated Kirk in the general election, also outspent him, \$75,460 to \$66,980.

New York produced the nation's most expensive broadcast campaign. Republican Gov. Nelson A. Rockefeller spent \$1,188,069, all but \$3,892 in the general election. Democratic challenger Arthur J. Goldberg, former Supreme Court Justice and United Nations ambassador, spent \$364,527 in the general campaign. Goldberg spent \$50,474 in the Democratic primary in holding off a bid for the nomination by Howard Samuels, who spent \$240,502.

#### HOUSE SPENDING

Elections for the House of Representatives also resulted in heavy broadcast spending in many states. Again, results were mixed and high expenditures did not guarantee success for candidates of either party.

The FCC survey reported broadcast spending in 354 of the 435 House races. Of these contests, 229 were won by candidates who outspent their opponents on broadcast advertising. However, many of them were incumbents.

Republicans outspent Democrats in general elections, \$2.1-million to \$1.8-million. But Democrats spent more than Republicans in primaries, \$771,000 to \$523,000.

In 31 House contests, expenditures in excess of \$20,000 were reported by at least one of the opposing candidates. However, in only 12 of these races did the candidate who spent the most on radio and television win.

In Alaska, Democrat Nick Begich spent \$21,297 in defeating his Republican opponent, Frank H. Murkowski, an Anchorage banker, who spent \$13,731 in the contest for Alaska's at-large House seat.

In California's 6th District, William S. Mailliard (R) spent \$18,220 but was outspent by his Democratic opponent, Russell R. Miller, who spent \$25,055. Incumbent Mailliard was re-elected. This was the only House race in California in which either candidate spent more than \$20,000 on broadcast advertising.

In Colorado's 1st District, Democrat Craig Barnes, a Denver attorney, spent \$25,848 in an unsuccessful attempt to defeat James D. (Mike) McKevitt (R), who spent \$14,941.

Georgia's 5th District was the scene of a successful re-election campaign by Republican Rep. Fletcher Thompson, who spent \$20,423 in defeating black challenger Andrew Young (D), a former aide to the late Rev. Martin Luther King. Young spent \$14,863 in his losing effort.

One of the widest margins in House broadcast spending between winner and loser occurred in the 23rd District of Illinois, where conservative author Phyllis Schlafly (R) spent \$44,196 in a vain attempt to unseat Democratic incumbent George E. Shipley, who invested only \$3,508 in broadcast campaigning.

The state of Indiana was the setting for three of the most costly House races in the nation. In the 3rd District, Rep. John Brademas (D) held off an expensive media blitz by Don M. Newman (R), a pharmacist. Newman spent \$29,541 compared to \$27,684 by Brademas.

In Indiana's 8th District, incumbent Roger H. Zion (R) was outspent by Democratic attorney J. David Huber, who spent \$21,238 compared to Zion's \$15,099. Nonetheless, Zion won re-election to a third term.

And in the 11th Indiana District, Danny L. Burton (R), a state senator and insurance executive, spent \$30,489 but failed to unseat incumbent Andrew Jacobs Jr. (D), who spent \$22,595.

In Iowa, Democratic state representative Edward Mezvinsky spent \$23,275 on electronic electioneering in an unsuccessful attempt to unseat veteran Republican Rep. Fred Schwengel, who spent \$16,253.

Two races, in Kansas saw candidates spend more than \$20,000 on radio and television ads. In the 2nd District, Dr. William R. Roy (D) spent \$22,897 in unseating three-term Republican incumbent Chester L. Mize, who spent only \$9,081. But in the 3rd District, Lt. Gov. James H. DeCoursey Jr. (D) spent \$33,738 but lost to Rep. Larry Winn Jr. (R), whose outlays totaled \$17,382.

Maryland's 5th District election was a close contest between incumbent Lawrence J. Hogan (R), running for a second term, and State Sen. Royal Hart (D). Hogan spent \$20,557 in defeating Hart, who spent \$12,227.

## 1970 SENATE RACES: SPENDING REPORTS BY CANDIDATES AND FCC

Candidate <sup>1</sup>	Reported to Senate <sup>2</sup>	Reported to FCC <sup>3</sup>	
		Primary	General
<b>Alaska:</b>			
Key (Democrat).....	\$5,000	\$12,372	\$34,435
Stevens (Republican) <sup>4</sup> .....	21,735	4,279	18,020
<b>Arizona:</b>			
Grossman (Democrat).....	180,778	25,836	85,388
Kruglick (Democrat).....		10,462	
Fannin (Republican) <sup>4</sup> .....	8,698	1,208	88,190
<b>California:</b>			
Brown (Democrat).....		51,004	
Tunney (Democrat) <sup>1</sup> .....	0	83,238	472,987
Murphy (Republican) <sup>4</sup> .....	1,631,402	71,007	400,731
Simon (Republican).....		800,823	
<b>Connecticut:</b>			
Dodd (Democrat) <sup>4</sup> .....	0	1,924	49,602
Donahue (Democrat).....		102,281	
Duffey (Democrat).....	0	40,856	88,782
Marcus (Democrat).....		46,285	
Weicker (Republican) <sup>4</sup> .....	0	49,813	80,954
<b>Delaware:</b>			
Zimmerman (Democrat).....	1,875		12,341
Roth (Republican) <sup>4</sup> .....	4,690		13,775
<b>Florida:</b>			
Bryant (Democrat).....		66,729	
Chiles (Democrat).....	16,966	34,003	49,489
Schultz (Democrat).....		101,229	
Carawell (Republican).....		61,819	
Cramer (Republican).....	333,986	70,580	145,484
<b>Hawaii:</b>			
Heitel (Democrat).....	5,886	16,140	65,747
Fong (Republican) <sup>4</sup> .....	0	35,847	37,463
<b>Illinois:</b>			
Stevenson (Democrat) <sup>4</sup> .....	35,120	0	261,573
Smith (Republican) <sup>4</sup> .....	0	89,061	252,206
<b>Indiana:</b>			
Hartke (Democrat) <sup>4</sup> .....	0	212	214,130
Roudebush (Republican).....	0	150	364,825
<b>Maine:</b>			
Muskie (Democrat) <sup>4</sup> .....	205,871	0	31,605
Bishop (Republican).....	47,820	0	8,593
<b>Maryland:</b>			
Finch (Democrat).....		18,801	
Mahoney (Democrat).....		23,775	
Tydings (Democrat) <sup>4</sup> .....	9,000	44,280	93,561
Beall (Republican) <sup>4</sup> .....	457,188	80	115,995
<b>Massachusetts:</b>			
Kennedy (Democrat) <sup>4</sup> .....	583,394	18,448	152,065
Spaulding (Republican).....	879	26,653	14,984
<b>Michigan:</b>			
Hart (Democrat) <sup>4</sup> .....	829	0	143,893
Huber (Republican).....		25,104	
Romney (Republican).....	0	63,481	44,978
<b>Minnesota:</b>			
Humphrey (Democrat) <sup>4</sup> .....	150	32,022	164,636
MacGregor (Republican).....	1,626	24,381	172,011
<b>Mississippi:</b> Stennis (Democrat) <sup>4</sup> .....	3,196	299	1,624
<b>Missouri:</b>			
Symington (Democrat) <sup>4</sup> .....	97,252	407	199,170
Danforth (Republican).....	234,144	4,182	228,475
<b>Montana:</b>			
Marsfield (Democrat) <sup>4</sup> .....	3,275	0	11,439
Welface (Republican).....	0		10,728
<b>Nebraska:</b>			
Morrison (Democrat).....	30,440	0	20,674
Hruska (Republican) <sup>4</sup> .....	780,576	54	25,093
<b>Nevada:</b>			
Caninon (Democrat) <sup>4</sup> .....	3,941	16,385	74,309
Raggio (Republican).....	3,897	6,110	82,991
<b>New Jersey:</b>			
Guarini (Democrat).....		53,096	
Williams (Democrat) <sup>4</sup> .....	106,503	17,603	173,057
Gross (Republican).....	23,860	85	391,462
<b>New Mexico:</b>			
Montoya (Democrat) <sup>4</sup> .....	0	5,683	23,628
Cargo (Republican).....		10,195	
Carter (Republican).....	0	8,346	37,354

See footnote at end of table

## 1970 SENATE RACES: SPENDING REPORTS BY CANDIDATES AND FCC—Continued

Candidate <sup>1</sup>	Reported to Senate <sup>2</sup>	Reported to FCC <sup>3</sup>		Total
		Primary	General	
<b>New York:</b>				
O'Dwyer (Democrat).....		25,974		25,974
Ottinger (Democrat).....	65,204	734,490	641,151	1,375,641
Sorenson (Democrat).....		85,204		85,204
Goodell (Republican) <sup>4</sup> .....	185,541	863	569,443	570,306
Buckley (Conservative) <sup>5</sup> .....	1,141,378	40	516,472	516,512
<b>North Dakota:</b>				
Burdick (Democrat) <sup>4</sup> .....	300	68	44,877	44,945
Kleppe (Republican).....	1,150	2,000	71,561	73,561
<b>Ohio:</b>				
Glenn (Democrat).....		31,081		31,081
Metzenbaum (Democrat).....	300	265,381	242,246	507,627
Rhodes (Republican).....		92,191		92,191
Taft (Republican) <sup>4</sup> .....	1,500	151,346	228,095	374,381
<b>Pennsylvania:</b>				
Reese (Democrat).....		10,829		10,829
Sesler (Democrat).....	16,511	19,468	25,374	44,842
Scott (Republican) <sup>4</sup> .....	1,603	0	267,270	267,270
<b>Rhode Island:</b>				
Pastore (Democrat) <sup>4</sup> .....	0	2,829	24,247	27,076
McLaughlin (Republican).....	0	0	6,263	6,263
<b>Tennessee:</b>				
Crockett (Democrat).....		31,929		31,929
Gore (Democrat) <sup>4</sup> .....	28,717	70,445	144,191	214,636
Brock (Republican) <sup>4</sup> .....	3,483	41,551	167,910	209,461
Ritter (Republican).....		19,303		19,303
<b>Texas:</b>				
Bentsen (Democrat) <sup>4</sup> .....	0	218,603	174,991	393,594
Yarborough (Democrat) <sup>4</sup> .....		128,405		128,405
Bush (Republican).....	8,193	65,622	293,142	366,764
<b>Utah:</b>				
Moss (Democrat) <sup>4</sup> .....	9,547	9,202	115,786	124,988
Burton (Republican).....	12,516	1,007	91,736	92,743
<b>Vermont:</b>				
Hoff (Democrat).....	203,626	5,390	73,631	79,021
Prouty (Republican) <sup>4</sup> .....	6,693	238	56,248	56,486
<b>Virginia:</b>				
DuVal (Democrat).....		36,563		36,563
Rawlings (Democrat).....	136,197	4,510	24,409	28,928
Garland (Republican).....	101,496	526	31,114	31,640
Byrd (Independent) <sup>4</sup> .....	384,580	1,202	90,231	91,433
<b>Washington:</b>				
Jackson (Democrat) <sup>4</sup> .....	138,829	47,354	42,736	90,090
Ellicker (Republican).....	24,960	0	0	0
<b>West Virginia:</b>				
Byrd (Democrat) <sup>4</sup> .....	300	315	8,615	8,930
Dodson (Republican).....	3,254	0	1,702	1,702
<b>Wisconsin:</b>				
Proxmire (Democrat) <sup>4</sup> .....	372,934	0	191,783	191,783
Erickson (Republican).....	0	17	79,597	79,613
<b>Wyoming:</b>				
McGee (Democrat) <sup>4</sup> .....	169,087	9,273	47,968	57,241
Wold (Republican).....	12,419	383	39,010	39,393

<sup>1</sup> Candidates who spent less than \$10,000 are not included unless they were major party nominees.

<sup>2</sup> Federal law requires all candidates for the U.S. Senate to report general election spending to the Secretary of the Senate. In practice, most candidates omit the substantial amounts spent on their behalf by political committees.

<sup>3</sup> The FCC reduced all figures in these columns by 15 percent in order to subtract agency commissions. To obtain actual spending, divide the net figures by 85 percent.

<sup>4</sup> Incumbent and winner.

<sup>5</sup> Winner.

<sup>6</sup> Incumbent.

Minnesota had expenditures of more than \$20,000 by candidates in two districts, the 3rd and the 7th. Republican opponent George Rice, a former television commentator who spent only \$3,708. Frenzel won the 3rd District seat. In the 7th District, two Scandinavian farmers each spent more than \$20,000 in a close contest. Bob Bergland (D) spent \$23,624 in defeating six-term incumbent Odin Langen (R), who spent \$21,665.

Campaigns for Montana's two seats in the House also resulted in high expenditures on broadcasting. In the 1st District, Missoula Mayor Richard G. Shoup (R) spent \$12,574 and defeated incumbent Arnold Olsen (D), who spent \$20,595. In the 2nd District, Rep. John Melcher (D) spent \$20,795 in fighting off a challenge by Jack Rehberg (R), who spent \$16,080.

New York congressional contests resulted in some of the highest expenditure in the nation. The highest outlay by a single House candidate for broadcast spending was in New York's 1st District, where radio station owner Malcolm E. Smith Jr. (R) spent \$58,117, all of it on radio announcements, in a vain attempt to unseat five-term incumbent Otis G. Pike (D), who spent only \$6,382 also on radio ads.

In New York's 17th District, Democratic incumbent Edward I. Koch spent \$14,531 in maintaining his House seat against a strong challenge by Peter J. Sprague (R), a Manhattan business executive who spent \$29,160.

In the 29th District, veteran incumbent Samuel S. Stratton (D) spent only \$9,555 in a victory over Republican Rep. Daniel E. Button, who spent \$20,27 in a costly losing effort.

In the 35th District, Rep. James M. Hanley was outspent by former Police Chief John F. O'Connor (R), who spent \$21,178 to Hanley's \$7,562. Hanley successfully held his House seat.

An expensive campaign in New York's 39th District saw Buffalo attorney Thomas P. Flaherty (D) outspend former professional football player Jack Kemp (R), \$35,732 to \$32,698. Nonetheless, Kemp won the seat.

In North Carolina's 10th District, incumbent James T. Broyhill (R) spent \$22,954 in defeating former Rep. Basil L. Whitener (D 1967-69), who spent \$9,251.

Two races in Ohio led to candidates' expenditures of more than \$20,000. In the 12th District, James W. Goodrich (D) spent \$22,811 in an unsuccessful attempt to unseat Republican incumbent Samuel L. Devine, who spent only \$8,920. In the 23rd District, Republican William E. Minshall, the incumbent, spent an overwhelming \$31,248 in defeating Democratic challenger Ronald M. Mottl, who spent only \$2,293.

Oklahoma also had two costly races, in both of which incumbents were re-elected despite higher spending by challengers. In the 1st District, veteran incumbent Page Belcher (R) spent \$20,290 in holding off an attempt to unseat him by James R. Jones (D), a Tulsa attorney who spent \$20,684. In the 4th District, Democratic incumbent Tom Steed was outspent but still defeated Jay G. Wilkinson (R), a former aide to President Nixon. Wilkinson spent \$32,997 compared to \$22,228 by Steed.

In Texas, there were four races in which candidates spent more than \$20,000. The higher spenders won in two of these races.

In the 3rd District, incumbent James M. Collins (R) spent \$22,945 in a successful re-election campaign despite the fact that his Democratic challenger Dallas Judge John Mead, spent nothing on broadcasting advertising. In the 7th District, Republican Bill Archer spent \$48,311 in defeating Jim Greenwood (D) who spent only \$15,383.

In the 21st District of Texas, San Antonio businessman Richard G. Gill (R) spent \$25,116 in an unsuccessful effort to unseat Democratic incumbent O. C. Fisher, who spent \$12,681. And in the 22nd District, Arthur Busch (R), a Houston college professor, spent \$37,607 but failed to defeat incumbent Bob Casey (D), who spent \$13,952.

Finally, in Wisconsin's 7th District, Democratic Rep. David R. Obey, who surprised observers in 1969 by winning the seat held for 30 years by Republican Melvin R. Laird, now Defense Secretary, spent \$30,237 in defeating Andre E. LaTendre (R), who spent \$14,196.

**Primary Spending.** In 17 primary elections for congressional nominations, spending in excess of \$10,000 was reported by one or more candidates. In 12 of these races, the higher spender won.

In Alaska's Republican primary, State Sen. C. R. Lewis of Anchorage, a member of the John Birch Society, spent \$17,423 in an unsuccessful effort to win the nomination over Frank H. Murkowski, who spent \$8,522.

In California's 11th District, Rep. Paul N. McCloskey Jr. spent \$17,814 and won the Republican primary against Forden "Skip" Athearn, a Hillsborough attorney who spent nothing on broadcast advertising.

In Colorado's 1st District, Craig Barnes spent \$16,267 in winning the Democratic primary over incumbent Byron G. Rogers, who spent only \$4,524.

The Democratic primary in George's 2nd District saw a crowded contest between ultimate winner Dawson Mathis, who spent \$10,704, Harry L. Wingate (\$10,550), Fred B. Hand Jr. (\$9,173) and Thomas C. Chatmon (\$907).

In Georgia's 5th District, Andrew Young spent \$14,138 to win the Democratic nomination over Wyman C. Love (\$929), Lonnie King (\$166) and Ray Gurley, who spent nothing on broadcast advertising.



Another costly race was that for the House seat in Iowa's 1st District, where expenditures of more than \$15,000 were reported in both Democratic and Republican primaries. In the Democratic contest, Edward Mezvinsky spent \$15,981 in winning the nomination over William Albrecht, who spent \$6,026, and William A. Strout, who spent \$1,759. In the Republican primary, State Sen. David M. Stanley spent \$29,866 in an unsuccessful attempt to unseat Rep. Fred Schweugel, who spent \$7,474.

In Louisiana's 3rd District, Rep. Patrick J. Caffery spent \$16,100 in winning the Democratic primary over Jules G. Mollere, who spent \$15,482, and Warren J. Molty, who spent \$1,000.

In the race for the Republican nomination in Massachusetts' 12th District, William D. Weeks spent \$21,992 but failed to defeat incumbent Rep. Hastings Keith, who spent only \$2,816.

In Maryland's 8th District Democratic primary, three candidates spent more than \$15,000. They were Thomas B. Allen, \$35,508; Leonard S. Blondes, \$17,357; and Thomas Hale Boggs Jr., \$15,897. The nomination went to Boggs.

In the 7th District of North Carolina, incumbent Rep. Alton Lennon (D) spent \$15,205 in his successful attempt to win the nomination over challenger Charles G. Rowe, who spent \$8,138.

## 1970 GOVERNORS' RACES: TELEVISION AND RADIO SPENDING

Candidate <sup>1</sup>	Reported to FCC <sup>2</sup>		
	Primary	General	Total
<b>Alabama:</b>			
Wallace (Democrat) <sup>3</sup>	\$396,073	\$41,210	\$437,283
Brewer (Democrat) <sup>4</sup>	431,093		431,093
Carter (Democrat)	37,116		37,116
Woods (Democrat)	69,672		69,672
<b>Alaska:</b>			
Egan (Democrat) <sup>4</sup>	40,283	33,798	74,081
Corr (Democrat)	66,500		66,500
Moller (Republican) <sup>4</sup>	21,495	25,806	47,301
Pollock (Republican)	26,568		26,568
<b>Arizona:</b>			
Castro (Democrat)	4,550	25,235	29,785
Nader (Democrat)	23,674		23,674
Williams (Republican) <sup>5</sup>	471	39,684	40,155
<b>Arkansas:</b>			
Bumpers (Democrat) <sup>3</sup>	76,282	117,725	194,007
Compton (Democrat)	10,937		10,937
Faubus (Democrat)	49,743		49,743
McClarkin (Democrat)	29,969		29,969
Walls (Democrat)	11,387		11,387
Rockefeller (Republican) <sup>4</sup>	25,737	308,360	334,097
Carruth (A)	93	12,266	12,359
<b>California:</b>			
Urch (Democrat)	9,233	221,703	230,936
Yerly (Democrat)	39,687		39,687
Ragan (Republican) <sup>1</sup>	54,450	380,919	435,369
<b>Colorado:</b>			
Hagan (Democrat)	70	44,641	44,711
Love (Republican) <sup>4</sup>	53	28,536	28,589
<b>Connecticut:</b>			
Doddario (Democrat)	11,689	78,972	90,661
Meskill (Republican) <sup>3</sup>	23,645	71,072	94,717
Barnes (Republican)	76,515		76,515
<b>Florida:</b>			
Askew (Democrat) <sup>3</sup>	95,211	75,460	170,671
Faircloth (Democrat)	121,119		121,119
Hall (Democrat)	27,670		27,670
Mathews (Democrat)	49,712		49,712
Kirk (Republican) <sup>4</sup>	19,520	66,980	86,500
Buttles (Republican)	23,665		23,665
Eckerd (Republican)	191,580		191,580
<b>Georgia:</b>			
Carter (Democrat) <sup>3</sup>	170,238	102,280	272,518
Sanders (Democrat)	290,207		290,207
Suit (Republican)	15,683	63,850	79,533
Bentley (Republican)	44,449		44,449
<b>Hawaii:</b>			
Burns (Democrat) <sup>3</sup>	86,012	19,582	105,594
Gill (Democrat)	49,494		49,494
King (Republican)	35,941	34,017	69,958
Porteus (Republican)	17,306		17,306

See footnotes at end of table.

## 1970 GOVERNORS' RACES: TELEVISION AND RADIO SPENDING—Continued

Candidate <sup>2</sup>	Reported to FCC <sup>1</sup>	
	Primary	General
<b>Idaho:</b>		
Andrus (Democrat) <sup>3</sup>	11,762	23,743
Ravenscroft (Democrat)	13,066	
Samuelson (Republican) <sup>4</sup>	9,808	29,017
Smith (Republican)	12,930	
<b>Iowa:</b>		
Fulton (Democrat)	2,083	32,904
Ray (Republican) <sup>5</sup>	127	53,673
<b>Kansas:</b>		
Docking (Democrat) <sup>3</sup>	0	101,782
Frizzell (Republican)	32,959	90,066
Harman (Republican)	24,436	
<b>Maine:</b>		
Curtis (Democrat) <sup>6</sup>	22	34,183
Erwin (Republican)	5,287	32,300
<b>Maryland:</b>		
Mandel (Democrat) <sup>3</sup>	79,748	108,413
Blair (Republican)	3,971	28,376
<b>Massachusetts:</b>		
White (Democrat)	97,317	196,133
Bellotti (Democrat)	54,960	
Donahue (Democrat)	60,887	
O'Donnell (Democrat)	16,913	
Sargent (Republican) <sup>4</sup>	20,233	293,224
<b>Michigan:</b>		
Levin (Democrat)	68,587	189,323
Ferency (Democrat)	10,100	
Parris (Democrat)	26,588	
Midiken (Republican) <sup>3</sup>	787	256,269
<b>Minnesota:</b>		
Anderson (Democrat) <sup>3</sup>	25	158,797
Head (Republican)	22	178,879
<b>Nebraska:</b>		
Exon (Democrat) <sup>3</sup>	6,722	13,406
Tiemann (Republican) <sup>4</sup>	12,115	18,433
<b>Nevada:</b>		
O'Callaghan (Democrat) <sup>3</sup>	15,346	55,533
Thornley (Democrat)	10,795	
Fike (Republican)	13,910	67,479
Springer (Independent)	425	14,997
<b>New Hampshire:</b>		
Crowley (Democrat)	4,085	8,274
Peterson (Republican) <sup>3</sup>	9,142	7,851
Thomson (ANH)	9,880	8,685
<b>New Mexico:</b>		
King (Democrat) <sup>3</sup>	8,378	17,924
Daniels (Democrat)	20,711	
Domenici (Republican)	9,281	38,545
<b>New York:</b>		
Goldberg (Democrat)	50,474	364,527
Morgenthau (Democrat)	40,182	
Samuels (Democrat)	240,502	
Rockefeller (Republican) <sup>3</sup>	5,892	1,182,177
<b>Ohio:</b>		
Gilligan (Democrat) <sup>3</sup>	150	507,389
Cloud (Republican)	86,730	197,202
Brown (Republican)	50,363	
Lukens (Republican)	59,207	
<b>Oklahoma:</b>		
Hall (Democrat) <sup>3</sup>	41,320	45,263
Baggett (Democrat)	42,051	
Cannon (Democrat)	16,823	
Bartlett (Republican) <sup>4</sup>	216	62,288
Little (American)	1,632	30,789
<b>Oregon:</b>		
Straub (Democrat)	0	33,000
McCall (Republican) <sup>3</sup>	11,950	61,782
<b>Pennsylvania:</b>		
Shapp (Democrat) <sup>3</sup>	175,947	428,435
Casey (Democrat)	164,901	
Broderick (Republican)	61,205	485,669
<b>Rhode Island:</b>		
Licht (Democrat) <sup>3</sup>	4,819	133,784
DeSimone (Republican)	0	90,736
<b>South Carolina:</b>		
West (Democrat) <sup>3</sup>	118	106,180
Watson (Republican)	184	116,174

See footnotes at end of table.

1970 GOVERNORS' RACES: TELEVISION AND RADIO SPENDING—Continued

Candidate <sup>1</sup>	Reported to FCC <sup>2</sup>		
	Primary	General	Total
<b>South Dakota:</b>			
Kosloski (Democrat) <sup>3</sup>	722	20,890	21,602
Farrar (Republican) <sup>4</sup>	8,080	39,935	47,995
<b>Tennessee:</b>			
Hooker (Democrat)	129,333	130,071	259,404
Snodgrass (Democrat)	9,275		9,275
Taylor (Democrat) <sup>5</sup>	20,324		20,324
Dunn (Republican) <sup>5</sup>	26,232	197,106	223,338
Jarman (Republican)	29,046		29,046
Jenkins (Republican)	52,928		52,928
Robertson (Republican)	18,506		18,506
<b>Texas:</b>			
Smith (Democrat) <sup>1</sup>	2,392	147,217	149,609
Eggers (Republican)	14,533	181,164	195,697
<b>Vermont:</b>			
O'Brien (Democrat)	5,713	26,793	32,506
Davis (Republican) <sup>4</sup>	234	69,012	69,246
<b>Wisconsin:</b>			
Lucey (Democrat) <sup>5</sup>	40,894	160,205	201,099
Olson (Republican)	189	161,236	161,425
<b>Wyoming:</b>			
Rooney (Democrat)	28	1,834	1,862
Hathaway (Republican) <sup>5</sup>	0	10,968	10,968

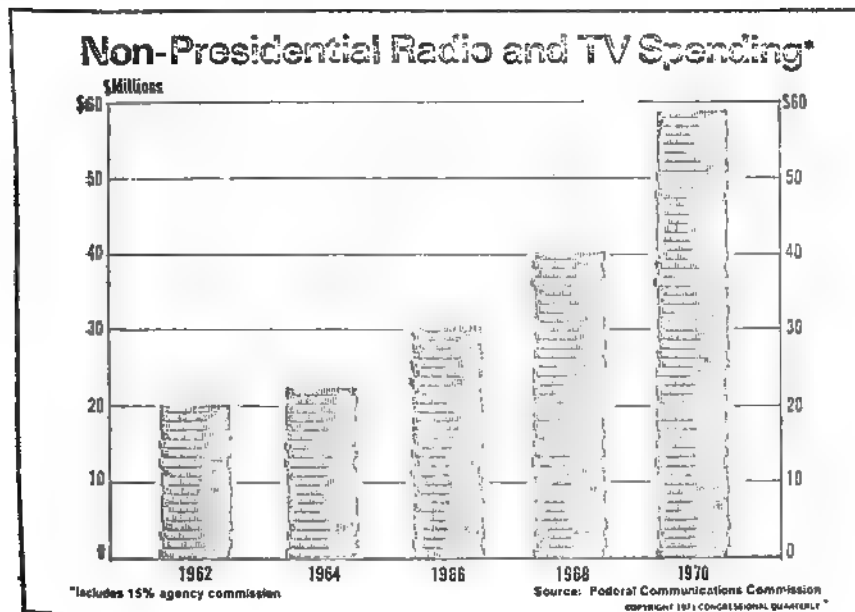
<sup>1</sup> Candidates who spent less than \$10,000 are not included unless they were major party nominees.

<sup>2</sup> The FCC reduced all figures in these columns by 15 percent in order to subtract agency commissions. To obtain actual spending, divide the net figures by 85 percent.

<sup>3</sup> Indicates winner.

<sup>4</sup> Indicates incumbent.

<sup>5</sup> Indicates incumbent and winner.



Ohio's 19th District Democratic primary election, which had 15 candidates, was won by Charles J. Carney, who spent \$4,992 on broadcast advertising. Other high spenders were Richard P. McLaughlin, \$11,061; Gary J. Thompson, \$6,671; and John M. Hudzik, \$3,744.

In Pennsylvania's 17th District, Republican incumbent Herman T. Schneebeli spent \$16,938 in overcoming a determined challenge by Robert F. Smith, who spent \$23,085.

South Dakota's two Republican primaries both had high expenditures. The 1st District had five candidates, and was won by Dexter H. Gunderson, who spent \$13,356. Jerry Simmons spent \$8,809 and Frank Gibbs \$4,361 in losing efforts. In the 2nd District, Fred D. Brady spent \$11,837 in a successful campaign over James Abdnor, who spent \$7,166. Neither Republican candidate won his general election contest.

Finally, two primary races in Texas had spending of more than \$10,000 by candidates. In the 5th District, Rep. Earle Cabell (D) spent \$10,078 in defeating challenger Mike McCool, who spent \$5,253. And in the 7th District Republican primary, Bill Archer spent \$29,955 in winning the nomination over Ross Baker, who spent \$17,831, and Dudley Sharp Jr., who spent \$21,055.

**Broadcast Costs Per Vote.** When measured on a cost-per-vote basis, the most expensive general election campaign for statewide office was conducted by Gov. Winthrop Rockefeller (R Ark.). His losing campaign for re-election cost \$1.56 for each vote he received. The winner, Dale Bumpers (D), spent 31 cents per vote.

The smallest expenditure by a winning gubernatorial candidate was the 5 cents per vote of J.J. Exon (D Neb.) who defeated incumbent Norbert T. Tiemann (R). Tiemann spent 9 cents per vote.

Sen. Howard W. Cannon (D Nev.) spent 80 cents per vote in his successful re-election bid—the highest amount expended by a winner in a statewide race. His opponent, William Raggio (R), spent \$1.36 per vote.

The smallest amount spent by a winner in a statewide campaign was the .56 cents per vote outlay of Sen. John C. Stennis (D Miss) who had no Republican opponent. Among winning statewide candidates who were opposed, Sen. Robert C. Byrd (D W. Va.) spent the least, 2 cents per vote. His opponent also spent 2 cents per vote.

The lowest cost per vote for a losing candidate was the 1½-cents expenditure of William Sesler (D Pa.) who opposed Sen. Hugh Scott (R).

Wyoming had the least expensive campaign by a losing gubernatorial candidate. John J. Rooney (D) spent 4 cents per vote, compared to 15 cents for his opponent, Gov. Stanley K. Hathaway (R).

#### HISTORY'S COSTLIEST CAMPAIGN

Spending in the battle for the White House was only a fraction of the record total of 400 millions poured out for the nationwide 1972 elections.

The political campaign of 1972 may not have been the most exciting, but it turned out to be by far the costliest in history.

Total spending on presidential, congressional, State and local contests topped 400 million dollars, by authoritative count.

This compares with total outlays of about 300 million dollars in the previous record year, 1968.

The new mark reflects the steadily rising cost of campaigning. This year's estimated total is nearly triple the 140 million dollars laid out by candidates in the elections 20 years ago, and double the figure for 1964.

One authority whose data indicate that a 400-million-dollar estimate of the cost of American politics in 1972 is accurate is Herbert E. Alexander, director of the Citizen's Research Foundation in Princeton, N.J. Dr. Alexander is a political scientist who specializes in studies of campaign financing.

Soaring costs of campaigning, this expert notes, are propelled by such factors as inflation, greater and more-expensive use of television, the application of high-priced computer techniques, and more-widespread polling.

**\$5 per voter.**—Dr. Alexander does not consider the spending total excessive for an affluent nation. He observes:

"It's not much in terms of what is spent on chewing gum and cosmetics."

Political scientists point out that what was spent amounts to less than \$3 a head on the basis of nearly 140 million Americans of voting age, or about \$5 per actual voter.

The 1972 presidential race alone is estimated by Dr. Alexander to have cost, in round figures, 100 million dollars. He gives this breakdown:

Nixon campaign—45 million dollars. McGovern campaign—22 million.

Prenomination spending, plus outlays by minor-party candidates—33 millions.

With financial records far from complete at this point, Dr. Alexander estimates that contests for the U.S. Senate and House of Representatives, Statewide races for Governor, Lieutenant Governor and other offices, and campaigns for county or local offices cost roughly 100 million dollars in each of the three categories.

The political-financing analyst cited the fact that there are more than 500,000 elective offices in the U.S.

Presidential campaign costs for this year's general election—about 67 million dollars by the major parties—show a rise from a total of 59.4 million in 1968 and 84.8 million in 1964.

The 1968 figures include 7.2 million dollars spent on behalf of the third-party candidacy of Governor George Wallace of Alabama. This year, Mr. Wallace campaigned for the Democratic nomination until an assassination attempt in which he was severely wounded forced him to halt his efforts.

**Million-dollar donors.**—Public attention has been sharply focused on the spending issue this year. One reason is the new Federal Election Campaign Act, which became effective on April 7. Under that law, political committees are required to register with the U.S. Comptroller General and report all contributions in excess of \$10.

A spotlight has thus been beamed on big donations—and controversy has arisen about money that was collected before April 7, when disclosure became mandatory.

The Committee for the Re-election of the President said it had 10.2 million dollars in cash on hand before the April 7 deadline.

On November 2, Republicans disclosed under a court order a list of 283 persons who contributed more than 5 million dollars of that total.

Biggest gift listed was 1 million dollars from W. Clement Stone, Chicago insurance magnate.

Another big donation shown was \$800,000 from Richard Mellon Scaife, of Pittsburgh, one of the heirs to the Mellon banking fortune.

Mr. Scaife has said publicly that, over all, he gave \$990,000 to the Nixon campaign, in checks for \$3,000 each to 330 separate political committees.

On the McGovern side, a late-October example of substantial financial help was the filing of a report showing loans totaling \$500,000 from Daniel and Nicholas Noyes, of Indiana, heirs to the Eli Lilly drug fortune.

**More contributors.**—Campaign committees in both major parties agree that more "little people" contributed more money than ever before to political war chests this year. Charles R. Barr, a partner in a Washington-based firm, Public Affairs Analysts, suggests these reasons:

"For one thing, Americans are becoming increasingly aware that contributing is an active way of supporting the . . . party or candidates of their choice.

"In addition, political parties are doing a more-effective selling job in attracting contributions.

"Finally, corporations are doing more to encourage employees to make political contributions, so the average contribution is going up."

Other experts point to the growing financial role of labor unions in politics. Spending by unions on national-level candidates rose from 1.8 million dollars in 1968 to 6.6 million in 1968, and some officials report that this year's outlays were about 10 million.

In the view of some analysts, Dr. Alexander among them, it is up to Congress to find a way to improve on the present system of raising political money—and to enact legislation assuring that "the mother's milk of politics" is distributed more equitably.

[From the New York Times, Nov. 19, 1972]

## CAMPAIGN SPENDING IN '72 HIT RECORD \$400-MILLION

(By Ben A. Franklin)

WASHINGTON, Nov. 18.—Senator John G. Tower, Republican of Texas, reported campaign spending of more than \$2.5-million today in his successful bid for re-election, making his Senate seat apparently the most expensive non-Presidential office of the 1972 election year.

By all estimates, when the final official campaign contribution and expenditure figures are computed and published on Jan. 31, the 1972 elections at all levels will prove to have been roughly a \$400-million enterprise, up \$100-million from the record \$300-million estimated to have been spent in 1968.

## 500,000 ELECTIVE OFFICES

Moreover, there are more than 500,000 elected officials in the United States at all levels of government. While the Presidential campaign (\$100-million this year, by over-all estimates), the Senate and House races (\$100-million for both) and the gubernatorial and state legislature contests (another \$100-million nationwide) consume the bulk of campaign funds, each election, even for dog catcher, requires some financing locally (about \$100-million more).

From the perspective of per voter expenditures, the totals are less awesome. Senator Tower's reported spending of \$2,579,952, for example, helped bring him 1,850,983 votes in Texas—a per voter cost of about \$1.39.

Senator Tower's \$2.5-million share of this year's campaign spending total by itself does not appear to have set an all-time non-Presidential mark. Other senatorial and gubernatorial campaigns in recent years, even when requirements for financial reporting by the candidates were generally less stringent than now, have far exceeded it.

For example, the \$7.1-million estimated by the nonpartisan Citizens Research Foundation to have been spent by Nelson A. Rockefeller in winning reelection as Governor of New York in 1970 was roughly three times the Tower total. The Rockefeller expenditure remains the all-time non-Presidential high.

Former Representative Richard L. Ottinger reportedly spent about \$4-million in both the primary and general election in 1970, in which the Westchester County Democrat lost a bid for the Senate to James L. Buckley, Conservative-Republican. In the Texas race this year, Senator Tower had no primary opposition, but he campaigned as though he did.

Gov. Ronald Reagan of California reported spending \$3.5-million in his 1970 campaign, and in the same year Senator George Murphy of California spent about \$2.5-million. He lost to John V. Tunney, a Democrat.

Complete disclosures of expenditures, up to Election Day, are not available in most other Congressional races this year because the new Federal Election Campaign Act does not require final reports until the end of January. The Federal reports available now cover spending only through Oct. 26. The Texas filings today were under a state disclosure law.

## PERCY, THEN BROOKE

But when the Federal data is published, spending records already available indicate that Senator Tower's 1972 outlay will be closely followed by that of Senator Charles H. Percy, Republican of Illinois, and then by Senator Edward W. Brooke, Republican of Massachusetts.

A Massachusetts race for the House also is believed to have been among the most expensive for that office this year—that of Gerry E. Studds, a Democrat elected to the seat of Hastings Keith, a Republican.

Senator Tower's financial filing was made today in Austin, the state capital. A statement by his Democratic opponent, Barefoot Sanders, reported spending \$579,530. This was about one-quarter of Mr. Tower's total, which was heavily underwritten by the National Republican organization and by officials of the savings and loan industry. Mr. Tower is a member of the Senate Banking Committee.

More than 10 per cent of Mr. Sander's contributions—a total of \$40,000 to \$50,000 less than he reported spending—came from the Senate Democratic Campaign Committee (\$52,655) and the National Committee for an Effective Congress (\$20,000), a Washington based supporter of liberal candidates of both parties.

[From the New York Times, Nov. 4, 1972]

## CAMPAIGN COSTS ARE HIGHEST EVER

OFFICIAL REPORTED AMOUNTS FOR NIXON AND McGOVERN EXCEEDED \$40-MILLION

(By Ben A. Franklin)

WASHINGTON.—The final pre-election financial reports of President Nixon and Senator George McGovern today confirmed forecasts that 1972 would be the most costly Presidential campaign year in history.

Even without including an estimated \$8-million to \$10-million in additional Republican spending that President Nixon's aides have declined to acknowledge or disclose, the reported official totals for both major party candidates rose today to more than \$80-million.

The roughly comparable figure for 1968—from less complete data reported under a weak financial disclosure law and including \$7-million expenditures by Gov. George C. Wallace of Alabama that was not included this year—was \$44.2 million. The 1968 campaign was the most expensive until this year's.

Moreover, the reported 1972 total of more than \$80 million reflected only the latest Federal fund-raising and expenditure statements, covering the 10-day period from Oct. 17 to 26. The total thus left for disclosure in post-election reports, to come in January, the heavy spending of the crucial culmination of the 12-day campaign through Nov. 7. The final 1972 campaign total is certain to be higher.

Today's spending reports, under the mandatory disclosure provisions of the Federal Election Campaign Act, followed the publication by the Republicans last night of a list of 283 previously undisclosed contributors to President Nixon's campaign.

The list was obtained by lawyers for Common Cause, the reformist citizens lobby, in an out-of-court, partial settlement of a suit against the Finance Committee to Re-elect the President. The suit had sought to force disclosure of all hidden Republican contributors, but the settlement provided for publication of major donors only be between Jan. 1, 1971, and last March 9.

The 283 donors of \$4.9-million included two at the \$700,000-to-\$1-million level the largest individual gifts ever publicly acknowledged by any Presidential candidate, and a dozen contributors of \$100,000 or more. Another \$100,000 was given jointly by 17 partners of one New York investment firm, Salomon Brothers.

The March 9 cutoff date of last night's report was the financial reporting deadline under the old Federal Corrupt Practices Act of 1925. The Republicans have said they ignored that reporting requirement because it did not require reports from primary election candidates. They contended that Mr. Nixon was not a bona fide nominee in a general election until he was renominated at the Republican National Convention in Miami Beach in August.

Under the new Federal Election Campaign Act, which superseded the old law on April 7, primary candidates must report, too, and the Republicans began complying then. But the effect of last night's disclosure was to leave in mystery the amount and sources of millions of dollars reported to have been given to Mr. Nixon's finance committees during the 27 days between March 10 and April 7, with the inducement of anonymity for the donors.

A further partial disclosure by the Republicans under the terms of the Common Cause settlement—a list of smaller donors for the same limited time period—is to come tomorrow or Sunday. It is expected to disclose little.

The reported spending totals available to date under the new disclosure law in effect since April 7—and covering expenditures only since April 7—showed that President Nixon's campaign has cost at least \$36-million and Senator McGovern's \$25.9-million, a total of \$61.9-million.

In 1968, the \$44.2-million post-nomination spending total for the Presidential campaign was reported as \$22.5-million for Mr. Nixon, \$15.4-million for Senator Hubert H. Humphrey and \$6.3-million for Governor Wallace. In addition, the Democrats in 1968 spent about \$25-million in pre-convention, primary election battles. The cost of Mr. Nixon's nominating campaign in 1968 has been estimated at from \$10-million to \$12-million.

(From Broadcasting, Nov. 13, 1972)

**NIXON OUTSPENDS MCGOVERN IN TOTAL BUT NOT ON AIR: OVERALL BILLS NEARLY DOUBLE, BUT BROADCAST ONLY TWO-THIRDS, ACCORDING TO LAY-  
GAO SUMMARY**

President Nixon spent nearly twice as much as his Democratic opponent, Senator George McGovern (S.D.), to gain another four years in the White House. But he spent only two-thirds of the McGovern total in communications media. Those were the statistics contained in the latest reports filed by the principal Democratic and Republican presidential-campaign committees with the General Accounting Office.

A total of \$35,178,782 was spent by four GOP committees after the campaign-spending law went into effect last April. Of that amount, \$4,392,644 went to communications media. There were total individual contributions of \$13,504,548 and total receipts of \$28,646,853.

The McGovern camp spent \$18,475,912 over-all, of which \$6,042,204 was used for communications media. Individual contributions amounted to \$12,468,206 and total receipts, \$18,708,275.

Just before the election, in the period Oct. 17 to Oct. 26, Senator McGovern's campaign committee spent \$2.8 million on television and radio and was \$2.7 million in debt. President Nixon's various committees, on the other hand, spent under a half million in broadcast and were over \$1 million in the black. An earlier report by the committees showed the two parties about equal in TV-radio spending (Broadcasting, Oct. 30).

The combined summary reports filed by the major GOP committees showed debts of \$1,560,000 for the period but obligations owed to them totaling \$2,682,235, leaving \$1,122,235. McGovern for President, Inc. had debts of \$2,704,821, but only \$124,480 was owed to it.

Here are some details of the broadcast-spending patterns of the two parties for the Oct. 17-26 period:

The Media Committee to Re-Elect the President provided a \$430,000 advance to the November Group, New York (the Nixon campaign's house agency), but those funds were unspent as of Oct. 26.

The Radio Committee to Re-Elect the President provided the November Group with a \$900,000 advance, which was also unspent as of Oct. 26. A portion of a previous advance that was not spent brought the total unspent funds to \$901,888.

The Finance Committee to Re-Elect the President advanced the November Group \$374,792, but only \$82,719 of it was spent, leaving a balance of \$292,073.

The Television Committee to Re-Elect the President provided the November Group with an advance of \$500,000, of which \$479,445 was spent. The breakdown for network-television buys: CBS-TV, \$107,023; ABC-TV, \$87,143; NBC-TV, \$180,679. For network radio: CBS, \$9,180; MBS, \$14,960; NBC, \$8,000. Spending was \$47,821 for spot TV; \$3,004 for spot radio; another 27,555 was earmarked for spot TV and radio.

Expenditures by McGovern for President Inc. for the period totaled \$2,822,325, of which \$2,363,653 was allocated to broadcast. The breakdown: \$2,350,000 to Guggenheim Productions, Washington, for TV and radio time; \$6,064 to Independent Media Services, New York, for TV spot; \$5,063 to The Collaborative Group, Portland, Ore., for TV spot; \$2,233 to Dowd Bros. & Barton, Boston for TV spot; \$153 to WMOD(FM) Washington for spots; \$170 to WHFS(FM) Bethesda, Md. (Washington), for spots.

The following network-TV buys came out of money provided to Guggenheim Productions (editing charges are shown in parentheses): CBS-TV, \$295,004 (\$18,775); NBC-TV, \$268,823 (\$3,323); NBC-TV, \$143,506 (\$20,642).

Network radio buys amounted to \$54,600 on CBS, 27,150 on NBC and \$7,340 on MBS.

Law there appeared yesterday an unexplained, last-minute and apparently committees on Jan. 31, 1973.



[From the New York Times, Nov. 5, 1972]

**CAMPAIGN REPORTS SHOW MONEY COMES FROM FEW—DISCLOSURE LAW INDICATES 1% OR 2% OF VOTERS DONATE—TRUCKING CONCERNS GIVE \$100,000 TO NIXON'S DRIVE**

(By Ben A. Franklin)

WASHINGTON.—The stricter, new campaign finance disclosure law in force for the last seven months of the 1972 Presidential campaign has demonstrated with more precision than ever before that few citizens—perhaps 1 to 2 per cent of the eligible voters—contribute the money necessary to make the electoral process work.

Campaign financiers of both parties agreed in interview this week that this obviously enhances the relative political power of the rich. And this final, pre-election week of the campaign presented more evidence to support the theory.

In President Nixon's final, pre-election statement listing donors under the law there appeared yesterday an unexplained, last-minute and apparently concerted rush of trucking industry money.

Executives of Consolidated Freightways, one of the country's largest truck lines, and of Motor Freight Lines, Inc., and Gordon's Transports, Inc., were listed for contributions apparently totaling about \$100,000.

**"NO CONNECTION"**

Reached by telephone at his office in Memphis, M. M. Gordon, the president of Gordon's Transports, said the industry contributions "had absolutely no connection" with Mr. Nixon's appointment to the Interstate Commerce Commission earlier this week of Alfred T. MacFarland, a Tennessee Democrat for Nixon who Mr. Gordon said "I know very well."

The I.C.C. sets interstate truck freight rates. Mr. MacFarland was formerly general counsel of the Tennessee Railroad and Public Utilities Commission, which sets intrastate truck rates in Tennessee.

Commenting on speculation here that his appointment by the President had encouraged a rush of trucking contributions to the Nixon campaign, Mr. MacFarland said: "You can speculate anything, of course, and sometimes your speculation is right, but in this case nothing could be farther from reality."

"I do not presently represent any trucking firm in any matter, rates or otherwise, and I have not done so for 15 or 18 years," the lawyer said to a telephone interview at his farm near Gallatin, Tenn. "In fact, I have sued a great many of them during the regular practice of general law."

**DENIES I.C.C. ROLE**

Mr. MacFarland added that between 1955, when he left the Tennessee P.S.C., and 1958, "I probably did—I know I did" seek truck line rate increases from the state commission. "But I have never represented a truck line before the I.C.C.—nor a railroad nor a barge line," he said.

Mr. Gordon said that a \$25,000 contribution had been made on Oct. 18 by himself and his two brothers, both vice presidents of the truck line.

"But if you're looking for a political connection between this and Mr. MacFarland," he said, "there is none."

Embedded in hundreds of thousands of pages of mandatory disclosure statements required since last April 7 under the new law—a storm of paper that overtaxed both the candidates' money men and the Government repositories of their data—are the makings of a political-financial profile of 1972.

**QUESTIONS AND ANSWERS**

Some of the mass of data, as in the case of the trucking industry gifts, merely raises questions. But many are questions that, without the disclosure information, would not be asked. And there are some answers.

The showing includes figures from the final, pre-election statements that became available this week—data up to Oct. 28, which thus excludes the last 12 days of the campaign. The data disclose that President Nixon has spent

at least \$38-million almost exclusively to win next Tuesday's election, since he had no serious opposition in gaining renomination.

During the same time—April 7 to Oct. 28—reports by Senator George McGovern's finance staff show that he has spent more than \$25-million, not all directly in opposing Mr. Nixon. His post-April spending included some costly primary battles with other Democrats.

The roughly \$61-million total, although incomplete, already sets a record. The reported total cost of the Nixon, Humphrey and Wallace campaigns in 1968 was \$44.2-million, a record then.

#### UNDER CEILING

This year's higher spending total is a puzzle to some campaign finance experts because it has been reported that less has been spent for television, radio and other media advertising than in 1968. Neither Mr. Nixon nor Mr. McGovern has so far reported media expenditures that approach the \$14.2-million spending ceiling for a Presidential candidate in the new Federal Election Campaign Act.

The next and final candidate's disclosure statements on 1972 are not due for about three months—on Jan. 31.

The disclosures this week, both under the new law and in Republican contributors obtained through the settlement of a lawsuit, showed that there had been individual contributions of up to \$1-million.

The list of major Nixon contributors through March 9, 1972, whose names his lawyers had long maintained did not need to be reported under the old law, before its repeal by the new one on April 7, disclosed two \$1-million gifts—from W. Clement Stone, a Chicago insurance executive, and Richard Mellon Scaife, a Pittsburgh heir to the Mellon banking fortune.

Only \$800,000 of Mr. Scaife's \$1-million, which he has acknowledged to newsmen was the amount of his contribution this year, appeared in the new Republican list. The balance of \$200,000—an unknown amount from others—remained shrouded by the Republicans' refusal to name contributors between March 10 and April 7, believed to be their heaviest fund-raising period.

The new Republican list sharply revised the ranking of known Nixon contributors. It disclosed, for example, that Walter T. Duncan of Bryan, Tex., formerly believed to be a top Nixon donor, gave \$305,000 as listed in the public records, and Ray A. Kroc of Chicago, founder of the McDonald's hamburger chain, with \$225,000 for Mr. Nixon in the disclosure report.

The new list not only put Mr. Stone and Mr. Scaife far ahead of them but also showed that Arthur K. Watson, who recently as Ambassador to France is now known to have given Mr. Nixon at least \$303,000. Mr. Watson is the former board chairman of the IBM World-Trade Corporation.

#### FIVE HUNDRED THOUSAND DOLLAR LOAN

The list of the largest McGovern contributors identified so far is headed by Nicholas and Daniel Noyes, young Indianapolis brothers who are heirs to the Eli Lilly pharmaceutical fortune. They made a \$500,000 loan that may become, at least in part, a contribution.

Max Palevsky of Los Angeles, the largest stockholder in the Xerox Corporation, and his divorced wife, Joan, have contributed or lent \$373,943.

Stewart R. Mott of New York, a General Motors heir and backer of liberal causes, has contributed and lent \$340,298.

Dr. Alexander Zaffaroni of Atherton, Calif., developer of a birth control pill, has contributed \$207,440, largely through gifts of shares of stock in his drug company.

The McGovern financial reports also disclosed that a day after The New York Times's Sept. 28 editorial endorsement of Senator McGovern's candidacy, Mrs. Iphigene Ochs Sulzberger, widow Arthur Hays Sulzberger, the former publisher of The Times, and mother of Arthur Ochs Sulzberger, the present publisher, gave the Democratic candidate \$25,000.

[From the Washington Post, Nov. 10, 1972]

## CAMPAIGN MONEY TALKED IN SHOUTS AND WHISPERS

(By Morton Mintz)

Money talked loudly but not always clearly in Tuesday's elections.

President Nixon's campaign organization may have spent \$50 million or more, as his opponent's money manager has suggested. But would George McGovern have won if he had had the \$50 million and if Richard Nixon had had the senator's \$28 million?

In the light of the Nixon landslide, the answer from many Democrats and Republicans alike would be "no."

But money did make a difference in some states.

In Virginia, chances are, it was a timely \$200,000 loan from a retired industrialist that enabled GOP Senate candidate William L. Scott to saturate the media with advertising, rescue himself from relative obscurity and thereby defeat incumbent Sen. William B. Spong (D).

In other states, the better-heeled candidates won. This was the case in Texas, where Sen. John Tower (R), had receipts exceeding \$1.7 million as of Oct. 18, and in Illinois, where Sen. Charles H. Percy (R) also had much more than \$1 million. But would Tower have won without hanging onto the coattails of President Nixon? Might not the popular Percy have won in any case?

And in other states, losing candidates had more money than winners. In the Senate race in Colorado, for example, Floyd K. Haskell, a former Republican state representative, defeated the GOP incumbent, Sen. Gordon Allott, who had raised well over \$100,000 from undisclosed sources even before the election-financing disclosure law took effect on April 7.

Although its effects do not always lend themselves to easy generalizations, money in politics is likely to remain in the news for a long time, with an outcome few would venture to predict.

To take some cases in point:

What would be the public reaction if, as has been rumored, President Nixon should name as ambassador to Britain the campaign contributor whose acknowledged gift exceeds \$1 million, Chicago insurance executive W. Clement Stone?

Suppose the Agriculture Department should raise milk-support levels, further subsidizing the milk producers whose political committee gave \$50,000 to Democrats for Nixon? Or suppose the administration should give big new contracts to Ernst & Ernst, the firm of certified public accountants just discovered to have come up with \$39,375 in 158 separate contributions to Nixon in 1971?

Even without such actions, money in politics is sure to stay in the news.

Starting this month, as a result of a lawsuit brought by consumer groups, sworn statements will be taken from key figures in the milk producers' political committee which, in 1971, were first denied an increase in milk-price support levels by the Agriculture Department, then within a few days contributed more than \$300,000 to the President's re-election funds and met with Mr. Nixon at the White House, and, finally, saw the department reverse itself.

In a third lawsuit in U.S. District Court, closing arguments already have been heard on whether the Justice Department can be compelled to act against violations of the election laws. The issue currently is especially sensitive: Numerous "apparent violations" have been referred to Justice by the General Accounting Office, including that of a prominent stockbroker who has made large contributions to the Nixon campaign.

Probably early next year, as a result of a Common Cause lawsuit, the Finance Committee to Re-elect the President may be compelled to disclose the sources of an estimated \$10 million to \$15 million in pre-April 7 contributions, apart from the \$5 million identified on Nov. 2.

On Capitol Hill—where the Democrats have kept control of the House as well as the Senate—hearings on the Watergate case are expected to deal with how the Finance Committee obtained hundreds of thousands of dollars in contributions from all men and others that were "laundered" in Mexico before being delivered here before April 7.

Also on Capitol Hill, fundamental issues of campaign financing—what should be disclosed, and when, by contributors and recipients; whether limits should be set on contributions; whether there should be federal subsidies—will be the subject of hearings and maneuvering by those who advocate either tighter or looser rules.

The Internal Revenue Service, meanwhile, is planning public hearings on controversial rulings that permit large contributors to avoid gift taxes by splitting their contributions into \$3,000 segments, each going to a theoretically "independent" committee. Moreover, a lawsuit questioning the process by which the IRS happened to make a key ruling in this area is pending in U.S. District Court.

And the General Accounting Office, among others, has been investigating the reported huge contribution to Nixon committees made by W. T. Duncan, a Texas entrepreneur, while he was in debt and the target of a \$2.2 million lawsuit in which one of the parties is the Federal Deposit Insurance Corp. One of the legal issues is that the Nixon units reported Duncan to have given \$305,000, although he had given them an IOU which they had previously sold to a bank for \$10,000 loss.

Finally, questions about big-money financing of the just-ended campaign are destined to be revived again with the filing, for a Jan. 31 deadline, of final reports for 1972, starting with the inception of the Federal Election Campaign Act on April 7.

These reports will tend to underscore once more the known disparity between the Nixon and McGovern drives, according to preliminary indications. The President, for example, already has been reported to have got \$4.1 million from a mere 10 donors, including the known pre-April 7 contributors. McGovern's principal committee got more than two-thirds of its contributions of \$14.5 million through 400-20 from persons who gave in amounts of under \$100 each.

In one sense, the outlook for the McGovern campaign (which says it expects to be out of debt by a week from today) and the Democratic National Committee (which since last July has reduced its \$9 million 1968 debt to about \$5 million) is brighter than for the Nixon fund-raising units. It is GOP committees, after all, that face the greater potential embarrassment in the pending lawsuits and upcoming hearings.

[From the Washington Star, Feb. 1, 1973]

#### NIXON CAMPAIGN IS COSTLIEST

(By James R. Polk)

President Nixon raised and spent more money in his re-election race than any other candidate in history, official filings show.

At least \$36.2 million passed through the Finance Committee to Re-elect the President, according to its summary report, and reports of other fund-raising arms are expected to push the final Nixon total past \$50 million.

Nixon himself set the previous spending record at \$35 million in 1968.

Democratic candidate George S. McGovern's campaign reports failed to show up at the General Accounting Office by yesterday's deadline, midnight.

The Nixon reports show a surplus of \$4.8 million—also far more than ever before—still left in the coffers of its five major fund-raising groups.

A Mississippi land owner and an Iowa industrialist—both relatively unknown rich men—gave the Nixon forces the biggest boost in the closing days of the race.

W. L. Chappert of Vicksburg, Miss., a millionaire farmer with extensive cattle and land holdings, and Roy J. Carver, chairman of Bandag Inc., a tread-rubber manufacturing firm in Muscatine, Iowa, each gave multiple checks that appear to top \$200,000.

Carver's total has hit \$84,000 so far, with only a third of the Nixon reports submitted. Chappert's sum is \$75,000 in early returns.

The year-end reports cover the last 12 days before the election and its aftermath. The major Nixon national committees raised another \$6 million in this period, and the state groups could match this figure in their last-minute surge.

Late donors include racing-horse owner Frank McMahon, a Canadian citizen; millionaire realtor Howard R. Hughes; mass housing developer William J. Levitt; and Ford lawyer H. J. Heinz II.

All were among the contributors whose checks approached \$30,000 or more in the first third of the Nixon filings.

Singer Frank Sinatra, who caused a stir with a four-letter tirade against society reporter at an inauguration-eve party, and J. Willard Marriot, the Washington Post's man who was inauguration chairman, were shown for donations like-

Two officials of Electronic Data Systems, the computer firm of Texas multimillionaire H. Ross Perot, were high on the Nixon list.

EDS President Milledge A. Hart III, with \$63,308 so far is expected to top six figures. Thomas J. Marquez, a vice president, has given about half that.

Other donors whose early listings indicate exentual \$100,000 sums include: Eugene T. Barwick, Chamblee, Ga., president of a carpet firm; Robert B. Evans, Detroit, a major American Motors stockholder; W. S. Farish III, a Houston oilman; Edward J. Frey, banker, Grand Rapids, Mich.; Neil A. McConnell broker, New York City; Garrick Stephenson, antique dealer, Southampton, N.Y., and Joan DuPont, industrialist, Greenville, Del.

Added checks for two former Humphrey supporters—Minneapolis soybean magnate Dwayne O. Andreas and clothing tycoon Meshulam Riklis of New York City—also brought their totals for the year to near \$100,000.

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[From the New York Times, Jan. 5, 1973]

#### 900,000 GAVE TO NIXON DRIVE

WASHINGTON.—The chairman of the Finance Committee to Re-elect the President estimates that Mr. Nixon's campaign received contributions from more than 900,000 people. Maurice H. Stans said Wednesday the campaign had received 1,021,882 contributions, adding the number of contributors was lower because some persons contributed more than once.

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[From the Washington Post, Feb. 1, 1973]

#### NIXON CAMPAIGN FUND REPORTED OVERFLOWING

(By Morton Mintz)

Six of President Nixon's major re-election campaign committees reported yesterday that they had cash on hand totaling \$4.8 million on Dec. 31.

The figure was believed to be of special concern on Capitol Hill, where Republicans had complained that they received inadequate financial help from the Nixon organization and lost several House and Senate races as a result.

The Finance, Media, Radio and Television Committees to Re-Elect the President had \$4,637,875 of the cash on hand. Democrats for Nixon and the Victory '72 Dinner Committee had \$197,559.

In reports to the General Accounting Office for the period Oct. 27 through Dec. 31, the six committees said they received \$6 million in individual contributions. During the same period, they spent \$8.4 million—apparently mostly in the week preceding the Nov. 7 election.

The total of contributions from April 7, when the election-financing disclosure law took effect, was \$23.3 million. Expenditures aggregated \$32.4 million.

These figures, however, give only a partial picture. The Finance Committee alone has more than 50 state and territorial subsidiaries. The post-election reports of these satellite units are now being received and processed by the GAO.

The financial reports for the principal committees that worked for the election of the Democratic presidential candidate, Sen. George McGovern (D-S.D.), had not yet been received.

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[From the Washington Post, Feb. 4, 1973]

#### WINNERS STILL GET MONEY—\$10 MILLION GIVEN NIXON AFTER OCT. 26

(By Morton Mintz)

Voters went to the polls last Nov. 7 with no way of finding out that many obscure contributors were continuing to pour as much as a quarter-million dollars each into the presidential and congressional campaigns.

Even after the election was over, surprisingly large sums went to the victors. Four dairymen's committees gave \$50,500 to 10 victorious Senate candidates, for example. The same committees already had given them \$72,100 in the pre-election period.

Most of the contributions were legal under the Federal Election Disclosure Act, which requires a final pre-election report only for contributions made through Oct. 26. Contributions made after that need not be reported until Jan. 31.

But enforcement authorities did have questions about certain contributions including one for \$100,000 made to President Nixon's re-election organization on election day by a political committee of the Seafarers International Union AFL-CIO.

The Finance Committee to Re-Elect the President recorded the gift to the General Accounting Office in its post-election report, which became available last Friday. The disclosure law, however, provides that "any contribution of \$5,000 or more received after the last report is filed prior to the election shall be reported within 48 hours after its receipt."

A finance committee spokesman had no comment except to say that every effort had been made to comply with the law.

Easily out-pacing Sen. George McGovern's campaign-financing apparatus even though Democrats gave it about twice as much as they gave Hubert Humphrey in 1968, the President's organization gathered at least \$10 million after Oct. 26 from contributors who have been mainly undisclosed up to now.

In addition to thousands of small donors, the President's contributors include at least eight indicated to have given in excess of \$100,000 each, executives of firms with lucrative government contracts requiring government approval, citizens of Canada and Greece, and celebrities such as Frank Sinatra and billionaire recluse Howard Hughes.

A large share of the contributions came in the form of blocs of stock worth less than \$3,000 each, the proceeds from which were parcelled out among multiple committees. This technique, used by both parties, not only avoided gift taxes for the contributor, but spared him as well as the recipient committees from paying capital gains taxes, as the tax laws are interpreted by the Internal Revenue Service.

The \$10 million in contributions is the aggregate of sums listed by 71 major Nixon and Republican national and affiliated committees. But it is a substantial understatement because it excludes, for example, the gifts received by one-third of the 53 state and territorial affiliates of the finance committee. The reports of these units, for which the mailing deadline was Jan. 29, had not reached the GAO by the close of business Friday.

Almost triple the \$10 million was raised in the 6½ months after the disclosure law took effect April 7. Before that, the Nixon organization is estimated to have raised \$15 million to \$20 million from largely undisclosed sources.

The two principal McGovern committees told the GAO that they had individual contributions of \$2.9 million in the period Oct. 27 through Dec. 31, bringing the total since April 7 to \$17.8 million. Expenditures since April 7 were put at \$26.2 million compared with the \$46.2 million listed in the incomplete Nixon filings. The GAO did not complete processing the voluminous McGovern reports until Friday noon.

The two largest Nixon contributors after Oct. 26 each was indicated, on the basis of the incomplete filings to have given about \$250,000 after contributing nothing earlier in 1972.

His donors are Francis L. Cappaert of Vicksburg, Miss., and Roy J. Carver of Muscatine, Iowa. Why they contributed only after Oct. 26 could not be learned.

Cappaert "believes in the President," his long-time aide and spokesman. Mildred Case Johnson, told a reporter.

He is president of a land company with holdings in Louisiana, Mississippi and Nevada, an oil explorer and developer, board chairman and president of a mobile home manufacturing firm in Louisville, Ky., and a philanthropist.

"No considerations were involved" in Cappaert's contributions, Mrs. Johnson said. She suggested that her boss had given in hopes of defeating McGovern as much as in hopes of electing Mr. Nixon.

Carver is board chairman of Bandag, Inc., a producer of tread rubber and tire retreading equipment. He could not be reached for comment.

Two top executives of Electronic Data Systems Corp. in Dallas made a combined contribution of the firm's stock for which they had paid about 20 cents a share, but which skyrocketed to as high as \$60 by the approximate time it was given to Nixon committees for sale, congressional sources said.

The executives are Milledge A. Hart III, president, and Thomas J. Marquez, vice president. The firm's chairman is H. Ross Perot, the multimillionaire who won fame in an effort to aid American prisoners of war in Vietnam.

In a series of hearings in 1971 on the firm's contracts to process Medicare and Medicaid claims filed in Blue Shield groups, the House Intergovernmental Relations Subcommittee heard testimony that Electronic Data had made profits of an estimated 100 per cent, that is, its profits equaled its costs.

Witnesses told the subcommittee that the firm which has an estimated \$100 million in contracts that required approval of the Department of Health, Education and Welfare, had violated federal regulations, such as those requiring competitive bidding and access to company records. Perot has denied there were any violations. He has not himself emerged as a Nixon donor.

Early last year, Electronic Data got a \$62,000 contract to do work for the President's Domestic Council. There was no competitive bidding. White House spokesmen said only Perot's firm was qualified.

Others making their debut as large contributors with gifts to Mr. Nixon expected to run between \$75,000 and \$100,000 include:

F. Eugene Dixon, investor, Lafayette Hills, Pa. John du Pont, industrialist, Greenville, Del. Robert B. Evans, investor and major stockholder in American Motors, Detroit. Edward J. Frey, president of Union Bank & Trust Co. in Grand Rapids, Mich., and Garrock G. Stephenson, antique dealer and investor, Southampton, N.Y.

The new reports were devoid of the names of some of the President's earlier major contributors, such as Richard Mellon Scaife, Pittsburgh heir to a banking and industrial fortune who gave \$1 million before the disclosure law became effective, and Ray A. Kroc, the MacDonald hamburger tycoon who gave \$255,000 between April 7 and Oct. 27.

Some familiar donors, gave anew after Oct. 27, however, One, W. Clement Stone, who has acknowledged \$2 million in pre-April 7 gifts, was listed in post-election reports for at least \$20,000 more.

The four dairymen's committees reported that through Oct. 16 they had contributed \$25,000 to President Nixon and \$333,510 to a bipartisan bloc of 91 incumbent and 19 non-incumbent House and Senate candidates, exclusive of numerous gifts to gubernatorial and state legislative aspirants.

Over the next 11 days the milk committees poured out an additional \$855,700, including \$537,000 to congressional campaign committees, their reports to the GAO indicate.

After the final pre-election reporting periods had passed, the committees said, they gave an additional \$45,000 to Mr. Nixon, after his re-election, and \$140,823 to congressional candidates and committees.

Sen. James O. Eastland (D-Miss.), assured of an easy re-election victory, got \$5,000 on election day, adding to \$15,000 in earlier milk money. Sen. James Abourezk (D-S.D.), given \$17,500 before he was elected, got \$4,000 more Nov. 21. On election eve Walter (Dee) Huddleston got \$3,500 in his race for the Senate from Kentucky, on Nov. 24 he got \$15,000.

Similar post-election gifts were made to 10 of 34 House candidates who also had received pre-election gifts.

Similar patterns were disclosed by committees other than the dairymen's units, which usually are referred to by their acronyms: ADEPT, TAPE, C-TAPE, and SPACE.

On Dec. 3, the Southern Railway Tax Eligible Good Government Fund gave \$1,000 each to newly elected Sens. William L. Scott (R-Va.) and Sam Nunn (D-Ga.). The political committee of the First National City Bank in New York City gave \$300 to each of two members of the House Banking Committee on Nov. 21. The Podiatry Political Action Committee gave a physician member of the House Commerce Committee, Rep. William R. Roy (D-Kans.), \$500 the day after Christmas.

In the final pre-election reporting period, 30 executives of 15 trucking firms—whose rates are regulated by the Interstate Commerce Commission—gave \$192,700 to Nixon committees.

The still-incomplete post-election reports list at least \$115,000 more from 29 executives of 23 trucking firms. In addition, Frank Fitzsimmons, president of the Teamsters International union; Salvatore (Tony Pro) Provezan; William Bufalino, other well-known Teamster officials and various Teamster political committees were listed for at least \$55,000.

At least one Teamster committee gift exceeding \$5,000 was not reported by the Nixon recipient committee within the 48-hour period specified in the law.

The First Boston Good Government Fund, whose treasurer is Emil J. Pettberg Jr., chairman of the First Boston Corp., a major securities underwriter, was listed by three Nixon units for gifts of \$2,500 each on Nov. 10. The Boston Fund is not registered with GAO, although the law requires registration of any committee giving more than \$1,000. Pettberg denied registration was required.

Dr. Thomas J. Morrison, a retired New York City internist who gave the Nixon campaign at least \$34,000 in 1968, was listed by Nixon units for at least 13 gifts of \$3,000 each, all within the period Nov. 4 through Nov. 20. However, he told The Post that he had contributed everything before Nov. 7.

[From the Washington Post, Oct. 20, 1972]

## McGOVERN: THE JOURNEY

### MONEY POURS IN

(By William Greider)

The drafty seventh-floor room with the long tables cluttered with mail has become the unofficial therapy center at McGovern for President national headquarters on K Street—the place where campaign staffers go when they are battered by bad news.

They open envelopes from the mound of incoming mail and marvel at the money.

Yesterday, they deposited an uplifting total of \$852,538—their best day yet in six banking days since the money started coming in response to Democrat presidential candidate George McGovern's televised speech on Vietnam, the total deposits from mail contributions has been \$2,400,137—about double what was coming in before.

But best of all, for the McGovern staffers, are the letters of encouragement.

"God, I'll tell you, it's unbelievable," said Harold Himmelman, who is in charge of organizing the Eastern states. "I was really moved by the people who sent a dollar or two dollars. You'd get letters like: 'I'm on Social Security and I don't get enough to live on, but I wanted you to have this.'"

Other big shots in the McGovern organization also have taken a turn at the mail table alongside the volunteers—campaign manager Gary Hart, finance chairman Henry Kimelman, regional coordinators Rick Stearns and Eli Segal, among others.

"I didn't get that much done, production-wise," Hart confessed, "because I spent a lot of time reading the notes people sent in. You get a very human feeling from the people."

"It's a very uplifting experience," said Marcia Johnston, Hart's secretary. "It's not just a dream of ours. People really do want that war over and they really do want him as President."

"It was a humbling experience," said Rick Stearns, who stayed up until 4 a.m., fascinated by the mail. "Sobering for all of us. It was a re-awakening to what the McGovern campaign is all about."

Whether the recent deluge of money actually reflects a rising tide of public sentiment for McGovern remains to be established. But certainly it is the best news the candidate has heard since he won the nomination in July.

The workers passed cookies and apples, beer and coffee, down the tables. Every so often, the work was interrupted when someone opened a biggie—\$100 or \$300 or even \$1,000—or read aloud an especially passionate letter. In an adjoining room, 18 adding machines clicked out the tabulation.

The night shift was added because the backlog of mail got so out of hand—up to 30,000 letters a day. The fund-raising people also abandoned their postal coding system which tells them which medium produced the gift—the senator's TV speech or a television spot or the direct-mail solicitations which have been sent to more than 8 million Americans.

"We started throwing it all together," said Sharon Opp, who supervises the mailroom. "It's just all George McGovern's money now."

Vice presidential candidate Sargent Shriver told a meeting of Business Executives for McGovern yesterday in Chicago that the campaign now expects to raise



\$22 million, still short of the original \$25 million budget, but enough to finish the campaign in decent style.

"The history books will record," he said, "that a presidential campaign can be financed by the people rather than the special interests or fat cats, if they believe in the candidate. And they obviously believe in George McGovern."

At McGovern's national headquarters, officials were less bullish about the total income. Hart estimated it would run between \$18 million and \$20 million. But all agreed that the fund-raising sets a new precedent in campaign financing, especially for Democrats.

Republican candidates since Barry Goldwater in 1964 have developed extensive use of direct-mail solicitation, but McGovern may be the first modern candidate to finance the bulk of his campaign from small gifts. Their importance has been heightened because traditional fat cats have been wary of McGovern and reluctant to bankroll him.

"This campaign, you might as well say, is dependent entirely on direct mail," said Morris Dees, the professional who runs the operation. "Without direct mail this campaign wouldn't be." He expects a total of \$14 million from direct mail alone, raised since the Democratic convention from about 650,000 people.

By comparison, the Finance Committee to Re-elect the President reports a total of about \$12 million from 700,000 small contributors, raised since January. GOP spokesman Powell Moore said the returns last week were about \$900,000 from about 75,000 contributors, up slightly so far this week.

Mr. Nixon's direct-mail campaign will be the largest ever for a Republican, but his campaign has still received the bulk of its money from large contributions and his budget, reported at about \$45 million, dwarfs McGovern's. "We still need about \$7 million to complete the campaign," Moore said yesterday.

In McGovern's mailroom, several hundred volunteers turn up each day to slice open envelopes and record the take. Two security policemen stand guard.

At one table, four youngsters from Bethesda were savoring the occasional obscene message. Along with money, the campaign headquarters has received bricks, metal staples, heavy books—all mailed postage due.

"All the hate mail is illiterate," said Roger Allen, 15. "You are a Commie—spelled with a T."

Suber said maybe 10 per cent of the mail has negative comments, but their effect is overshadowed by the heartening news in most envelopes.

"The other night at 12:30," he said, "we were all really tired. We got \$25 from this guy who said, 'I've got two good reasons for sending \$25 to George McGovern.'"

Enclosed was snapshot of a Vietnam veteran, both legs amputated.

[From the New York Times, Nov. 26, 1972]

#### GRASS-ROOTS GIFTS TO MCGOVERN SAID TO SET RECORD OF \$14-MILLION

(By Ben A. Franklin)

Washington, Nov. 25.—Although Senator George McGovern was overwhelmingly defeated for the Presidency, his candidacy prompted such an unmatched outpouring of contributions that Democratic finance aides believe he may be out of debt by Jan. 1.

Small contributions of \$1 to \$500 from 650,000 to 700,000 people, according to the candidate's fund raisers, apparently raised between \$14-million and \$15-million this year. This roughly triples the previous record for grass-roots gifts, set by Republican partisans of Senator Barry Goldwater in 1964.

McGovern aides say that when the records are completed, nearly 60 percent of the cost of the Senator's \$25-million to \$26-million campaign since last July will have been financed by small donors, also a record.

The McGovern contributions have settled some of the Democratic money men's doubts whether low-and-medium-income liberals would give as generously as conservatives had to Mr. Goldwater. In the process, they also created a hot but politically fragile property—the computer tapes containing the names of the donors.

Many fund raisers believe that the McGovern mailing list could provide the wherewithal to lift the Democratic National Committee out of its own indebted-

ness, left over from the 1968 campaign, and finance party activity and interest during President Nixon's second term.

But ultimate possession of the McGovern list is in dispute. It has been ordered impounded by the South Dakota Senator.

#### LIMITED ACCESS TO LIST

The leadership of the Democratic National Committee has apparently been promised one-time access to the list as repayment for Mr. McGovern's use of a committee mailing list at a crucial time last summer. McGovern aides say that they will honor the commitment—but not by giving over the list itself, only by permitting its use in commercial mailing shops.

Meanwhile, the list itself, stored in cans containing reels of computer tape could become a "relatively unclear" casualty of the Democrats' post-election bickering over control of party posts, according to Henry L. Kimelman, the McGovern finance director.

"If Senator McGovern is put out at the Democratic National Committee," Mr. Kimelman said, "the list just isn't worth a damn."

"The list is as good as McGovern is—its' made up of people who are peculiarly his people across the country—and they are not going to give to an anti-McGovern bunch," Mr. Kimelman said.

At a fund raising cost of around \$3-million, the McGovern grass roots financial appeal, conducted largely by mail, grossed up to \$15-million and netted something like \$12-million toward the \$25-million to \$25-million estimated final cost of the Senator's post-convention campaign.

Final figures will not be in for weeks, Mr. Kimelman said. But it is already possible to see that the so-called McGovern Million Member Club made history in political financing.

In 1964, more than 300,000 persons, mostly new converts to campaign giving, contributed nearly \$6-million to the Goldwater campaign.

According to the nonpartisan Campaign Finance Study Center, a citizen research foundation, perhaps 115,000 persons, also chiefly new to politics, contributed to the 1968 campaign of former Senator Eugene J. McCarthy, a Liberal for the Democratic Presidential nomination.

#### LIBERALS' BACKING DOUBTED

But early this year, Herbert E. Alexander, director of the research foundation and author of "Money in Politics," wrote in that book that "it has yet to be learned whether a liberal can rally" as much popular financial support as did Senator Goldwater.

In a recent interview, Mr. Alexander called the McGovern fund raising performance a "phenomenal success" and "one of the lasting and most significant aspects of the McGovern campaign."

The McGovern mailing list provides "the basis for a whole new foundation of support for the Democratic party," Mr. Alexander said. "But the party can't just kick out McGovern's people and expect them to go on giving."

Mr. Kimelman estimated that, as of his weekend, the McGovern campaign has approximately equal liabilities and assets of \$1-million. About \$1-million is still owed to a small number of wealthy lenders who provided a total of \$6.4-million in "front money" for the Senator's primary campaign and general election drive, and in bills still payable for commercial services. About \$1-million is due in campaign pledges and returns of cash advances to suppliers.

"At maximum," he said, "we could end up with about \$100,000 in the black. We will certainly not be owing more than \$100,000, at worst."

The McGovern borrowing, which rose to about \$3-million at one time, was programmed to be repaid at the rate of 10 per cent of the borrowed amount each week, drawing on the small contributors' steady gifts. The total borrowed since the Democratic convention last July was about \$4.7-million, all but \$700,000 of which has been repaid, the finance director said.

Mr. Kimelman reported that all "hard loans" have been or are "almost repaid." He said that he, Miles Rubin and Morris Dees Jr., the top McGovern financial team, had each converted half of their own loans, totaling \$360,000, to direct contributions, and were asking other lenders to do the same.

## LOOPHOLES AND GAPS

**ON THE ISSUES OF CAMPAIGN FINANCE REPORTING: MORE THAN MEETS THE EYE**

More facts on the way political campaigns are financed became public record in 1972 than ever before as a result of the new Federal Election Campaign Act of 1971. Yet the public may be far from obtaining a solid grasp on those facts and what they mean.

Not only did a complete picture of the sources and uses of tens of millions of campaign dollars fail to emerge in time for the voters to scrutinize it by election day, but anything like a definitive accounting appears months in the offing.

Final financial reports on the 1972 presidential and congressional elections are due by Jan. 31. While they will add to the new data required by the law, the end of the year's reporting is likely to leave important questions on the sources of campaign funds unanswered.

Hailed as the first comprehensive revision in campaign finance legislation in 46 years, the new law is seen by its supporters as a major improvement over the loophole-riddled Corrupt Practices Act of 1925 which it replaced. Nevertheless, even its backers concede the 1971 law was a compromise with serious shortcomings.

The 93rd Congress is certain to take a new look at major elements of its predecessor's work on campaign financing—a subject that affects every member of Congress.

While Congress considers proposals to strengthen or weaken the new law, researchers face a formidable task: how to use the unprecedented numbers of campaign documents to tell how the 1972 elections really were financed.

The quantity alone presents problems. Reports for presidential races at the General Accounting Office (GAO) and for congressional campaigns at the offices of the House clerk and Senate secretary, respectively, are expected to exceed 250,000 pages. Other difficulties, stemming from provisions of the law, make it uncertain at this point how much will be shown in the final analysis.

References: Business group campaign contributions, 1972 Weekly Report p. 2720, labor contributions, p. 2643; agriculture contributions, p. 2440; Senate campaign donations, p. 2279; final action on PL 92-225, 1972 Almanac, p. 161.

## IDENTITY PROBLEMS

The problem of identifying contributors to federal political campaigns from official records is suggested by the alphabetical list compiled Oct. 20, 1972, by the General Accounting Office.

Showing contributors of \$25 or more, it included the following five entries:

Angier B. Duke, 37 Chester Sq., London, \$100 to East Side Citizens for McGovern, New York.

Angier B. Duke, 600 Third Ave., New York, \$224 to Democratic National Committee.

Angier Biddle Duke, 47 Chester Sq., London, \$100 to Americans Abroad for McGovern.

Angier Biddle Duke, 47 Chester Sq., London, \$50 to Americans Abroad for McGovern.

Angier Biddle Duke, 47 Chester Sq., London, \$1,000 to McGovern for President, District of Columbia.

Duke's prominence would ease the task for researchers in this instance, but the same kind of questions on more obscure persons present difficulties in many cases. They might ask whether Angier B. Duke is Angier Biddle Duke, whether there might be more than one person by that name at the various addresses, and whether the two different street numbers in London are accurate and apply to the same person—Duke the diplomat. Some of these questions might be answered by cross-checking through the files or elsewhere, but the task can be time-consuming and results uncertain.

In the absence of further checking, someone would have to decide whether the five Duke entries represented the total donations of one individual. This can involve legal difficulties.

# CONTROVERSY

Disputes marked the unsteady progress of the Federal Election Campaign Act (8382—PL 92-225) through the 92nd Congress and were renewed after it went into effect April 7, 1972. The compromise provisions that were enacted virtually guaranteed that a truce, not a final settlement, had been reached.

Renewed legislative controversy in 1973 and 1974, with the elections of 1974 and 1976 in the background, is likely to involve among other things:

The law's requirement that political committees file reports with three federal offices, rather than a single one, with supervision over congressional campaign fund matters vested in officers employed by the House and Senate rather than in an independent agency.

The lodging of enforcement powers with the Justice Department, which, like the two congressional offices, is dependent on the workings of the political system itself.

The volume of reports, described by some as overkill.

Lack of a method for positive identification of individual contributors. (Identity problems, box this page)

**Contractors.**—A labor-business coalition late in the 1972 session of Congress sought unsuccessfully to amend the act to modify the restrictions in the law against political activity by corporations and labor organizations holding government contracts. The effort passed the House and won Senate committee approval but failed Oct. 14 when Sen. William Proxmire (D Wis.) led a filibuster threat in the Senate. (1972 Almanac, p. 723)

Unions say they may lose from \$80-million to \$50-million in manpower training contracts unless the law is changed to permit corporations and unions with government contracts to participate in the same political activities as those without government contracts.

An unidentified AFL-CIO official was quoted by The Washington Post Dec. 2 as indicating the labor unions would probably give up government contracts if forced to choose between that and giving up political contributions. "We will choose (the contributions) over everything else," the official said.

Common Cause and the National Committee for an Effective Congress resist the change, contending that full hearings are necessary in which to review the complexities of the subject.

Chairman John W. Gardner of Common Cause, which with the committee was a leading force behind enactment of the new law, said Dec. 5 he expected "an attempt to gut the existing law at the outset of the new Congress."

Referring to the government contractor dispute, Gardner told an ad hoc Senate hearing that "those who feel the present law has been all too effective will attempt to weaken it—possibly without hearings and with little public debate."

Susan King, Washington director of the committee, told Congressional Quarterly there might be some changes on the contractor provision after necessary clarifications "but 15 days before the election is not the time to do it" and it should be done publicly.

**Election Commission.**—A main goal of supporters of the legislation is a proposal to establish an independent federal elections commission to supervise the law. This almost killed the bill in 1971 and may provoke further controversy this year.

The Senate passed that provision but the House rejected it. The issue produced what Sen. John O. Pastore (D R.I.), floor manager for the 1971 legislation, referred to as "some dispute in conference." Pastore told the Senate the "House was adamant" in its opposition to removing supervision from House and Senate officials.

The House conferees, Pastore said, "told us in no uncertain terms that if we insisted on the provision, we would come out without a bill."

Rep. Samuel I. Devine (R Ohio) and six other Republicans on the House Administration Committee had said in separate report views Oct. 18, 1971, that they to leave supervision over campaign data with congressional officials amounted to resignation "to the idea that it is sufficient" for the duties involved "to be performed in what in all probability will be a less than acceptable manner."

The House majority position on that point won out; supervision was vested in the House, Senate and GAO, respectively. But the issue of an election commission or possible centralization of authority in the GAO is far from dead. Gardner, for example, after watching the law in operation through its first election season, spoke in December of "the failure of Congress to provide for effective enforcement" of the new act.

**Public Financing.**—"Common Cause's ultimate objective is public financing of most election costs, a drastic change in the system of financing elections but one we believe is essential to destroy the special interests' power to buy candidates," said a December statement by the bipartisan pressure group formed to push for revised national priorities and governmental reform. The National Committee for an Effective Congress also supports the concept of public subsidy for federal political campaigns.

The ultimate target of financing election costs with public funds is in itself a guarantee of further battles ahead in Congress. The first election year's experience under the law confirmed that interest groups channel their campaign contributions toward candidates who are or may be in a position to handle legislation in their own sphere of interest.

Reports examined by Congressional Quarterly, Common Cause and others showed this tendency was true of many kinds of organized interests, including business, labor, agricultural and ideological or other citizen groups. Special attention to key committee incumbents was common. Members handling the Federal Election Campaign Act were no exception to the trend. (Background, The Washington Lobby, paperback book published by Congressional Quarterly)

#### CAMPAIGN REPORT PROBLEMS

The Federal Election Campaign Act brought in reports from hundreds of political committees across the country, resulting in problems for all concerned: the reporting committees, the official custodians of the records and researchers who sought to make sense of the material.

Problems involved, among other things:

The volume of paperwork.

Details of the law.

The dispersal of reports in three separate offices. One attorney mentioned to Congressional Quarterly the difficulties in having "three officers trying to interpret vague and unclear language" in the act.

A heavy burden was placed on the GAO, clerk of the House and secretary of the Senate. They were charged with handling the reports and making them available for public inspection within 48 hours of receipt. They also were given other duties under the law, including submission of possible violations to the Justice Department.

In the House alone, officials estimate the 1972 reports would cover 110,000 pages—enough to fill 110 printed volumes of 1,000 pages each. The GAO had 70,000 pages of materials on the 1972 presidential race in its files as the year ended. The Senate also had voluminous files, processing 325 candidates and reports filling almost 60,000 pages through November 1972.

The law required publication of official annual reports by the custodians after the reporting period on the 1972 elections was completed. The offices also were required to make available for public purchase sets of reports submitted by political committees, referred to as their "annual reports" in the law.

Those looking to the post-election reports for speedy insights into financing of the 1972 campaigns for the Presidency and Congress may find themselves disappointed, though much new information doubtless will emerge.

**Required Reports.**—The law required every political committee expecting receipts or contributions for federal election activities of more than \$1,000 in a calendar year to file a statement of organization with the appropriate office and to keep it revised with changing circumstances.

Final reports were required each year by Jan. 31 of the following year, making Jan. 31, 1973, the deadline for final 1972 reports. Termination reports were called for when a political committee disbanded.

After the final reports are received, the supervisory officers are required by law to:

#### OFFICIAL CAMPAIGN SPENDING FILES: A FORMIDABLE CHALLENGE

After making use of the financial reports candidates for federal office and their supporting committees must file under the Federal Election Campaign Act, a *Time* magazine reporter noted: "Trying to pin down where the big political money comes from is an Excedrin-size headache. Peering at page after page of micro-filmed reports makes your eyeballs spin like a slot machine." Whatever the

physical effects, making sense out of the thousands of reports, in any reasonable time period, has proved an arduous task since the election law took effect—on April 7, 1972.

**Triumvirate.**—The most obvious difficulty facing those examining reports stems from the fact that three different reporting agencies are involved—the General Accounting Office (GAO) for presidential candidates, the clerk of the House for House candidates and the secretary of the Senate for Senate contenders.

If a person is interested in only a particular congressional candidate, the problem is somewhat refined. In the Senate, a candidate index lists each committee contributing to a particular candidate with a reference to the appropriate frame on a microfilm cartridge. However, the report of one campaign committee for one candidate may cover hundred of microfilmed pages.

In the House, one index lists a candidate's committees, and a separate index to committees lists the microfilm references—a method less efficient from the user's viewpoint than the Senate's.

For a presidential candidate, hundreds of committees are involved. To compile a complete list of contributors would defy any user. Instead, most examiners confine themselves to a few select committees for each candidate—the ones handling the greatest amount of money. On Oct. 20, the GAO issued a preliminary computer printout listing, in alphabetical order, presidential contributors of more than \$100. It was thicker than the Manhattan Yellow Pages.

But tracking down the contributions of multicandidate pressure groups—labor unions, business, agriculture and citizens' groups—highlights the problem of the reporting agency triumvirate. A particular union may file a report in the GAO and also in the House or Senate or both. For a complete assessment of spending all three reports must be examined. In some instances, juggling total spending figures in the three reports so that they jibe with each other is an accountant's nightmare.

**Plethora of Reports.**—The law requires each committee to file four periodic reports during a calendar year, and additional reports 15 days and five days before a general election. In addition, a committee which financially supports a candidate in a presidential primary or one involved in a national nominating convention must file two more reports in each instance.

In 1972, a group involved in all 23 presidential primaries and the nominating convention would have been required to file 52 reports in the GAO by Nov. 7. Each involvement in a congressional primary added two more reports.

As a result, sifting through reports for even one committee is time-consuming. Since each report is only cumulative since the last filing, to compile spending data—other than total figures—every report filed since April 7 must be examined. At an average personal speed of 10 minutes per report, it would take an hour to find out where a committee filing only six reports had spent its money. Instead of taking down information by hand, a user could order copies of the pages he is interested in at 10 cents a page.

**Mechanics of Use.**—Each reporting agency has adopted a different system for making information available. In the Senate, which deals with the fewest number of reports, there is a self-service approach. Beside each of three high-speed microfilm viewers, there is a drawer of 118 numbered microfilm cartridges. Using the index, the user locates the cartridge he wants and puts it on the machine. Then he punches a numbered keyboard to move the cartridge up to the appropriate frame number to view the entire five-schedule report.

In the House, the viewer must request the cartridges he wants on a written form. Copies of the cartridges are kept behind the counter. The three microfilm machines work in the same manner. Should a viewer find he later needs another number cartridge, he must fill out a new request form or "borrow" it from another user.

The GAO does not use the microfilm system. With the aid of the index, the user fills out a written form ordering printed copies of the reports he is interested in, using the index code number for each committee. Although it can be up to a half hour or more before he receives the reports, he then need not deal with microfilm cartridges and machines.

**Other Problems.**—Using the reports presents other problems. To check the affiliation of a particular committee with a name not readily recognized, the user must refer to the committee's registration statement. But frequently a committee handling contributions for officers of a particular corporation does not consider itself affiliated with the company and so lists no affiliates. Discovering any connection is left to the user's own resources.

Along the same lines, tracing the path of money transferred by, for instance, a national union to its locals, who then make contributions to candidate committees, is sometimes difficult. Contributions to party multi-candidate committees in the House and Senate are often tacitly "earmarked" for particular candidates but under the present system, reports do not reveal who gets what money from what source.

Deriving a list of aggregate contribution totals for any one contributor to one candidate is equally challenging. After going through every report for candidate committees, the user may be able to come up with a list of names and numbers. But although the law specifies otherwise, addresses and occupations listed for each contributor may be too general to assume that a "J. Brown, New York City, investment counselor" is the same person as a contributor with the same description on a different report.

Compile and supply to the government printing office by March 31 all the registration statements, amendments and financial reports received from every committee from April 1972 through Jan. 31, 1973.

It appeared unlikely early in 1973 that the reports would be compiled in volume form. Spokesmen indicated that some or all of the three offices may consider their legal obligation fulfilled if they supply copies of all reports in their custody to the government printing office which would publish them only upon request.

Purchasers would have the option of buying the reports in microfilm from the House and Senate offices. The Senate indexes can be purchased, but the House officials made indexes available only for examination at the records office. Lack of an index would create additional problems for a researcher.

Publish an annual report tabulating total reported contributions and expenditures broken into specified categories.

**Contributor List.**—Compiling a list of contributors who gave more than \$100 to federal campaigns—a requirement for annual reports—presents difficulties. Because of discrepancies in names and the lack of positive identification in many cases, supervising officers appeared likely to rely on the political committee reports for aggregate totals without attempting in most cases to add up individual donations between different committees.

"We recognized from the first that it would be virtually impossible to aggregate for individuals between committees," Orlando Potter, consultant to the secretary of the Senate, told Congressional Quarterly. "It seems to be legally impossible to draw a conclusion—make a presumption—that it's the same person, even if the same name at the same address is shown."

He said there was some sentiment for asking Congress to authorize requirement of a unique identifier such as a contributor's social security number. There has been some talk of possibly combining this with an incentive of some kind, perhaps a tax deduction.

This year, Potter said, it was felt that the best that could be done was to give a complete tabulation of every individual shown by a committee as giving a total of more than \$100. Others with the same name would be listed as reported by the various committees. The GAO in its Oct. 20, 1972, compilation listed every contributor of \$25 or more.

Phillip S. Hughes, director of the GAO's Office of Federal Elections, said he thought most overlapping would probably be brought out eventually, "but it will be difficult. It will remain difficult in the absence of a change in the law."

Hughes said a Social Security or other numbering system would be needed to solve the problem of duplications. "We now have three different numbering systems on the committees and none at all on the contributors," he said.

**Official Uncertainty.**—Those close to the subject seem in general agreement that although much data came to light from the flood of reports, a massive and time-consuming effort would be required to probe fully the secrets of the unprecedented accumulation of political committee reports.

No comprehensive study to pull the presidential and congressional data together into understandable dimensions is interpreted as being required by law, and there are no official plans for one. Plans for those final tabulations and studies which are authorized but not required by the law are largely undetermined.

Representatives of the House, Senate and GAO have conferred periodically and have agreed on meeting the minimum requirements of the law. Each office will make its own decisions as to any further studies, spokesmen said. Most of these plans were still unfirm as Congress returned.

Among those who have expressed concern as to whether the three offices will wind up with final data which is comparable for research purposes was Herbert E. Alexander, director of the Citizens' Research Foundation.

"We are dependent on these annual reports," he said in December. "What worries me is that we don't know what they will show. It may be apples and oranges."

His reference was to the question whether, when the three offices have completed their work, it will be possible to isolate duplications and what Alexander calls "discrete information" and arrive at reliable deductions concerning financial details of the 1972 elections.

In any event, months will be required for thorough analysis. By the time private or public analysts have sifted through them, compiled their findings and drawn conclusions on funding of the 1972 elections, new House and Senate elections will be nearing, the legislative battles of the 93rd Congress will be well advanced and the preliminaries for election of a new President under way.

#### OUTLOOK

In general, supporters of the original legislation spoke favorably of the law toward the end of the first year's test. Gardner called the law "a large improvement" over the Corrupt Practices Act. The National Committee for an Effective Congress, King told Congressional Quarterly "the results have been far better than anybody expected," considering the lateness of enactment before the 1972 elections, the opposition encountered and the amount of paperwork involved.

The new law, King said, "provides the first reliable base of information from which to contemplate further election reform." The GAO's Hughes and the Senate's Potter said they felt much useful information had been collected for the first time.

All cited shortcomings in the law, and renewed controversy in the 93rd Congress is all but certain. The legislative struggles will include disputes over enforcement and where authority should lie, proposals for further tightening of the law's provisions and renewed attempts to relax some requirements. An early conclusion is not expected.

[From the Washington Star, Oct. 9, 1972]

#### LOOPHOLES AND CYNICISM

This was the election year, you might remember, when the voting public was to regain much of its confidence in the democratic process. Congress passed, and President Nixon signed, the Federal Election Campaign Act of 1971, a law widely heralded and designed to curb campaign financing abuses and to fully inform the voters on who was bankrolling the politicians.

At this point, with but a few weeks remaining before Election Day, it would be difficult to detect any heightened public confidence in the system. If anything, the public is probably more cynical than ever. And no wonder, for the new campaign-financing law has proved notable only insofar as the politicians and their contributors have calculated ways to get around it.

The first failing of the law was that its disclosure provisions did not go into effect until April 7. In the weeks before that early-bird campaign groups, the Committee to Re-elect the President conspicuous among them, were out raising millions from anonymous donors.

But the damage did not stop there. For one thing, wealthy contributors have proved adept at splitting their contributions into any number of small pieces, each ladled out to a separate dummy finance committee. The candidates' fund-raisers have obligingly set up countless dummy committees for the sole purpose of raking in these funds.

Vigorous monitoring of contributions might have helped a great deal. But that hasn't worked well either. The General Accounting Office, after probing the use of Republican money in the bugging of Democratic headquarters, did submit a report citing "apparent and possible violations" of the law by the Nixon re-election committee. The report went to the Justice Department some time ago, but Justice has yet to say whether it will prosecute. The public, still waiting for its confidence in the system to be lifted probably will still be waiting for Justice's decision until after the election.

The latest threat to the law comes from the same Congress that passed it. Moving quickly, holding no hearings, the House has just knocked out a provision that banned political contributions from people associated with companies and



unions that hold government contracts. Apparently that ban had inconvenienced some big government contractors, and so a move was generated to throw it out.

The Senate, we hope, will refuse to go along. That would reassure the public that the new law, sham though much of it has proved, is not 100 percent loophole.

[From the Evening Star, Apr. 26, 1972]

#### FIRMS HEDGE ON FILING CAMPAIGN DONATIONS

(By James R. Polk)

Big business is playing a wary waiting game with the new campaign disclosure law, keeping the executive-level political funds at many companies still hidden out of sight despite a quiet drive by both parties to bring in more industry money this year.

While Gulf Oil, Union Oil and Hughes Aircraft executives led a handful of business campaign funds into the open under the new law, others at companies such as Ling-Temco-Vought (LTV) and General Electric are still pondering what to do about compliance.

Some industry officials are worried about public reaction to a company fund's political donations, particularly after the ITT hearings. Others are concerned about an often-overlooked section of the law which forbids contributions by government contractors.

"A lot of these companies are like a bunch of kids standing around a lake trying to figure if the water is warm enough—they are poking a toe in, trying to decide," said Richard A. Armstrong, executive director of industry's Public Affairs Council.

#### UNPUBLISHED LETTER

With a bipartisan eye on the business dollar, the Democratic and Republican national chairmen, Lawrence F. O'Brien and Sen. Robert J. Dole of Kansas, have sent an unpublished joint letter to many firms endorsing and encouraging the creation of more company funds.

The company funds, financed by voluntary checks from a firm's management-level employees, have grown in recent years as a means to avoid the ban on direct contributions by corporations. The new law allows such funds, but requires them to file public reports like other political committees.

Only 24 company funds have registered so far. At least ten times as many are believed to exist across the country, but haven't surfaced so far.

Several firms, such as LTV and McDonnell Douglas, have shut down their political funds while they try to decide what to do about public disclosure. In other cases, the money is still flowing, sometimes in apparent violation of the law.

#### UNREGISTERED "FUND"

A report by the main campaign committee for Sen. John G. Tower, R-Texas, shows a \$1,000 donation from the "Better Government Fund" in Fort Worth. Listed with its address is the name of an official of Bell Helicopter Co.

The so-called "Better Government Fund" has failed to register under the new law, even though the Tower contribution was made April 10, after the law went into effect.

Heading the list of those that did register publicly are the "Committee for Good Government," set up in the offices of Gulf Oil's lobbyists in Washington, and the "Political Awareness Fund" at Union Oil's headquarters in Los Angeles.

Others choosing to comply with the law include funds at TRW, an aerospace contractor; Olin Corp., which makes chemicals and ammunition; Crown Zellerbach Corp., in the lumber industry; Illinois Central Railroad; Hughes Aircraft, and the Chemical Bank in New York City.

#### 10-DAY INTERIM

The list of those that didn't file is much longer: including Standard Oil of Indiana, Republic Steel, General Electric, General Foods, Union Carbide, Northrop, Teledyne-Ryan, Weyerhaeuser and many others.

Since the law does not require a political committee to register until 10 days after it begins operation, a number of companies have closed down their previous political funds to take advantage of the waiting period.

At General Electric, government relations manager Steve Galpin said his "Effective Citizens Association" did not register when the law took effect April 7 because "we had nothing in business at that time." Galpin said GE was still considering what new form of fund it might use to comply with the disclosure law.

McDonnell Douglas has grounded its "Good Government Fund," according to its Washington vice president, Albert J. Redway. "We got rid of it. We're wondering what to do next. We're sort of scratching our heads," he said.

In Dallas, LTV Aerospace vice president Claude J. Benner said his firm's "Citizens for Good Government (CITIGO)" was also closed out. Benner said LTV was considering changing from an executive fund to a company-wide employee program.

The two party chairmen's letter to businesses said, in part:

"In the last decade a number of corporations installed a program to make it convenient and easy for their employees to give to the party and candidate of their choice. These programs, like Aerojet, Hughes Aircraft, TRW, Republic Steel and Standard Oil of Indiana, should be proliferated.

The letter, sent earlier this year, asked \$100,000 in seed money to set up a "National Support Your Party Program." The effort is due to be announced at a news conference here next week.

Included are plans for workshops for corporations early next month in Houston, Los Angeles, San Francisco, New York, Cleveland, Chicago and Pittsburgh.

The money potential for the political parties is staggering. The company-wide plans at TRW and Hughes each passed out about \$150,000 to candidates in 1970. The executive-level funds at LTV and Union Oil carved up an estimated \$100,000 each.

#### GOVERNMENT CONTRACTOR

Union Oil gave to candidates in 22 states, Olin in 31 states, Union Carbide in 28. Just two weeks ago the Hughes fund in Culver City, Calif., routed a \$1,000 check to a congressman 2,400 miles away: Rep. John Slack, a West Virginia Democrat who sits on the House Appropriations Committee handling the Pentagon budget.

Hughes and TRW are the only aerospace firms with political funds registering in compliance with the law so far. Clouding the outlook for the defense industry is a dusty section of law, never enforced before.

The campaign reform law picked up and kept, after a slight rewording, section 611 of the old Corrupt Practices Act which makes it illegal for any government contractor to solicit political funds or "directly or indirectly make any contribution of money . . . to any political party, committee or candidate for public office . . ."

Business has asked the Justice Department for a ruling on the ban on contractors' donations, but is still waiting for a firm answer. One company was told informally by Justice that the ban might be unconstitutional, Armstrong said.

#### UNPOOLED MONEY

For corporations worried about public disclosure, there are still loopholes in the new law:

Companies that collect checks from individual executives made out to specific congressmen's campaign committees do not have to register their programs since they do not pool the money in a central fund.

Many corporations use this method. For instance, Rep. Wayne N. Aspinall, D-Colo., chairman of the House Interior Committee, got seven checks in 1970 from executives of Humble Oil in Houston, nine from Kennecott Copper in New York City, 11 from Martin Marietta in Denver.

Executives can have payroll deductions from their checks channeled into a trust account at a bank for political purposes, then approve the specific donation to a congressman when it is sent later. An Armstrong memo says, "Republic Steel, Standard Oil of Indiana, and 3M have this type of fund."

Company funds can register, but send their earmarked contributions through the Democratic or Republican congressional committees to mask which candidate is getting the money.

Armstrong's memo, sent to companies but obtained privately by a reporter, explains: "Another possible dodge. For years many corporate committees have contributed political funds through four campaign committees (Republican senatorial, Republican congressional, Democrat senatorial, and Democrat congressional). To some extent this has been a 'smokescreen.'

"Customarily, they will trade checks with you i.e., you want to give \$500 to Congressman X's campaign. But you do not want to report it and do not want him to report it. Therefore, you make a contribution to the congressional campaign committee of \$500. The campaign committee makes out a check to Congressman X. They even let you deliver it.

"So, it may be possible for a political fund to file a report saying simply that it gave equal amounts to each of these four committees. On the surface, it would appear that the fund just wanted to help everyone. Actually, every nickel could be directed to specific candidates."

However, both in the memo and an interview, Armstrong suggested that company funds file publicly and predicted most would. "One of the plus things of the law is to get everything in the open," he said.

An industry-by-industry breakdown on the political funds:

**Aerospace.**—TRW and Hughes are alone in public filing. Northrop and Aerojet have had previous funds which have not registered under the new law. Teledyne-Ryan and Martin Marietta collect individual checks from executives without filing. McDonnell Douglas says it has closed its fund.

**Finance.**—The brokerage firm of Merrill Lynch, Pierce, Fenner & Smith has registered its "Effective Government Association." Four banks in Los Angeles and San Francisco—Security Pacific, Union Bank, United California and Wells Fargo—have funds filing. The "Century Club" for California savings and loans also registered. But other banks elsewhere haven't.

**Oil.**—Gulf and Union Oil registered, Standard Oil of Indiana did not. Humble Oil and Shell Oil, which have sent individual checks from executives, haven't filed, either.

**Railroads.**—The "Industries Civic Trust" can be traced to Illinois Central's headquarters in Chicago. The "Special Projects Group" is set up at Seaboard Coast Line in Jacksonville, Fla. Also registering were funds at Burlington Northern and the Frisco line.

**Chemicals.**—Olin and Tennessee Eastman, a division of Eastman Kodak that makes polyester fibers, have registered. Union Carbide says it will. Thiokol has not. Dow Chemical collects checks from individual executives for congressmen, but has no formal fund that is required to file.

**Electronics.**—General Electric, Westinghouse and 3M remain unregistered.

**Lumber.**—Crown Zellerbach registered a fund. Weyerhaeuser wrote to ask how file. Southwest Forest Products filed under the old law, but not under the new one, so far.

**Steel.**—Republic Steel hasn't registered its program. U.S. Steel has collected executives' checks in the past, but faces a stockholder question over this. Inland Steel, Bethlehem and Youngstown, which have had top executives contribute in the past, haven't shown up on record yet.

**Food, services.**—The "Public Interest Committee" for Quaker Oats has filed, but the "North Street Good Government Group" for General Foods is a year behind in its public reports.

INA, the Insurance Co. of North America, says it plans to register as soon as possible. General Telephone in California and the Fluor Corp. also have filed. Pacific Lighting has not.

[From the Washington Star, Sept. 17, 1972]

#### GM HEIR FINDS GIFT LOOPHOLE

A General Motors heir who has become Democratic nominee George S. McGovern's top backer has found a way to contribute thousands of dollars without paying taxes on the money he uses.

And he's doing it with the help of President Nixon's old law firm.

Stewart R. Mott, 34-year-old New York City multimillionaire who was one of 122 rich Americans who paid no federal income taxes last year, has pumped a fresh \$75,000 into McGovern's campaign with his new tax-free gimmick.

The latest infusion marks Mott as McGovern's biggest backer, with more than \$200,000 in loans and donations.

## METHOD EXPLAINED

The Mott method, made simple, involves giving the campaign a block of stock that has gone up in value. The campaign sells it, returns Mott's purchase price and keeps the profit from the stock gains. Mott not only avoids taxes on the gains, but he gets his original money back.

The Mott maneuver is being done with the advice and consent of his lawyers at Mudge, Rose, Guthrie & Alexander—the prestigious New York law firm that used to be Nixon, Mudge, Rose, etc., before its most prominent partner moved to the White House.

Mott isn't embarrassed at all over paying no taxes while backing McGovern, whose reforms would start with a rollback of tax dodges for the rich.

"I concur with McGovern wholeheartedly that every American should pay a minimum tax," Mott said in an interview.

But as long as the loopholes stay on the books, Mott sides with the observation by the late Judge Learned Hand which he likes to cite: "If there are a toll bridge and a free bridge side by side, you don't take the toll bridge."

Mott, an anti-war liberal, is the son of the founder of General Motors Corp., the nation's largest industrial giant. His income is almost \$1 million a year.

But he drives a Volkswagen, flies economy class, and lives on no more than some Senate aides make. He pays no taxes because he gives most of his income to charities and reform movements.

Mott is not untypical of the young, second-generation rich who are committed to McGovern in money as well as mind. Without them, the campaign might be on the brink of bankruptcy.

They include a 24-year-old law student who is heir to insurance millions in New York, a 31-year-old North Carolina insurance heir now living in a trailer and farming organically in Oregon, a 33-year-old Harvard professor married to a Singer heiress, and a 35-year-old Alabama civil rights attorney who earned his own fortune in private business.

Mott, the best-known, has also been the biggest giver.

He used his tax-free stock gimmick to make contributions to 30 separate McGovern spinoff committees for a total of \$75,113.60 in the latest public reports on file with the General Accounting Office here.

With another \$200,000 in unpaid loans to the campaign, plus his donations earlier in the year, his over-all investment in McGovern, on public record, now stands at \$307,419.

But Mott says there's more.

The McGovern filings with the GAO are a bird's nest of entwined minor committees with confusing and sometimes incomplete reports. Bookkeeping is bedraggled, with the same absence of organization that has shadowed the candidate on the campaign trail.

Mott says his actual donations this year have been \$150,707 and, tossing in another loan to a New York committee, his total outlay at the moment is \$337,207.

The discrepancy between McGovern records and Mott's acknowledgements brought a demand for a GAO probe from Republican National Chairman Robert J. Dole in a retort last month while his party was on the defense because of the Watergate affair.

The McGovern operation does abound with mind-boggling conduits and minor committees that seem to multiply as fast as bacteria.

The campaign set up 28 new groups with local West Coast titles such as "Playa to file, Southwest Forest Products filed under the old law, but not under the new transfer worth \$80,550 from Dr. Alejandro Zaffaroni of Atherton, Calif., developer of a synthetic birth control hormone.

Only a few days earlier, the campaign had used 15 separate spinoff committees, many of them new creations, in hauling in \$184,000 in new loans from Los Angeles construction company president Lawrence Weinberg and his wife. It seemed apparent that many of the loans may be written off as eventual donations.

## CERTAIN TRENDS CLEAR

Mott's own stock deals were spread among supporting committees whose various titles identified the young millionaire as a member of McGovern's farmers, doctors, union leaders, scientists or mental health workers.

Despite the mist that hides precise figures for McGovern, certain things are clear:

Only the loans from his inner circle of supporters are keeping McGovern in the race while the campaign awaits a hoped-for riptide of small donations which aides believe will surge in the mails as election day grows closer (and as McGovern grows closer in polls, where he now trails badly). Debts now total \$3 million.

The hostility of AFL-CIO President George Meany is cutting deeply into the usual Democratic presidential funds. In contrast to the traditional millions from labor, McGovern can count only three unions so far providing \$100,000 or more apiece.

The top financiers of the campaigns of defeated Democrats Hubert H. Humphrey and Edmund S. Muskie are staying distant from McGovern, as expected. Weinberg is the only major convert from Humphrey. Humphrey's biggest "fat cat," Walter Duncan of Bryan, Tex., already has given a quarter of a million dollars to Nixon.

#### NEAR TOP OF LIST

The Weinbergs stand near the top of the loan list with a \$190,000 unpaid total, counting one small previous injection.

The biggest lender is Morris Dees, the Montgomery, Ala., civil rights lawyer who is running the McGovern mail-order fund-raising effort. Dees has \$217,500 out on credit to the candidate, including two unpaid loans from the California primary.

The United Auto Workers has a \$180,000 balance on its loans, and the Communications Workers of America and the Machinists each advanced McGovern \$100,000 through their political wings in recent days.

Matt and the millionaire law student, Alan S. Davis, were among six persons furnishing \$100,000 loans. The organic farmer, Julian Price II, still has an \$80,000 unpaid loss from the California primary.

The McGovern forces picked up a major prize in winning support of Dr. Martin Peretz, the young Harvard professor who was one of the richest backers of antiwar candidate Eugene R. McCarthy in 1968.

In combing through new McGovern filings, Peretz can be found in 14 committee reports with new loans for a \$92,100 balance owed and in 14 other places for \$39,744 in new contributions.

Noteworthy, for another reason, is McGovern's chief fund-raiser, Virgin Islands importer Henry E. Kimelman, who now has a \$45,000 loan balance. Although Kimelman's total loans this year have been nearly five times that amount when his office starts carving out the refunds, he always has been among the first to get his money back.

[From the Wall Street Journal, Sept. 27, 1972]

#### FAIR SHARE?—HOW POLITICAL DONORS AVOID GIFT, GAINS TAXES BY CONTRIBUTING STOCK

NEITHER GIVER, PARTY IS BILLED FOR APPRECIATION IN VALUE; GOP MAIN USER OF TACTIC—"SOMEONE OUGHT TO BE TAXED"

(By Jerry Landauer)

WASHINGTON.—One day last February a group of imaginative financiers sat down in secrecy to dream up fancy titles for a batch of phony organizations.

The men were experienced in this sort of work, so it didn't take long to compile a big list of names: Better America Council, Loyal Americans for Effective Government, Dedicated Volunteers for Reform in Society, United Friends of Good Government, and so on. Fifty organizations were created, and copies of the list were quickly sent across the country.

Next, solicitors speaking in urgent, patriotic tones ("The future of our country is at stake!") induced citizens to part with securities bought at low prices long ago. This stock was carefully divided into blocks worth a few thousand dollars each. Then title to the stock was transferred to the impressive-sounding organizations. In a twinkling, the stock was sold and, once the cash proceeds had been safely deposited at four banks, all 50 groups vanished.

A stock fraud preying on gullible Americans?

By no means. This is the novel way in which the Committee to Reelect the President collected millions of campaign dollars this year. The idea is to make political giving relatively painless through avoidance of taxes—both capital gains and gift taxes.

Rather than solicit the traditional cash, Mr. Nixon's financiers sought extra-large contributions by emphasizing the presumed tax advantages of giving appreciated stock instead. Such fund-raisers as Thomas Pike, a vice chairman of Los Angeles' Fluor Corp., assured donors that no one is liable for taxes on any gains when the donated stock is sold.

#### ABOLISHED BEFORE APRIL 7

To protect big contributors giving either stock or cash against gift taxes, the GOP set up the sheltering network of dummy political committees. Under the law, no taxpayer can give more than \$3,000 annually to any person or organization without incurring gift taxes—once the taxpayer has exhausted a \$30,000 lifetime exemption. But with the stock gifts divided into segments worth \$3,000 or less, and the segments funneled through theoretically separate dummies, the contributor gets as many \$3,000 exclusions as he needs to avoid the tax.

Thus a loyal Republican eager for maximum political credit at minimum pocketbook cost might give stock that he had bought at \$100,000 and is currently worth \$150,000. The stock would then be divided among the 50 organizations into blocks of \$3,000 each, so as to avoid the gift-tax bite.

The President's reelection committee intended to keep its stock shuffling secret. All the dummy entities were abolished just before the Federal Campaign Act went into effect on April 7 so as to avoid registering them with the General Accounting Office and to guard the identity of donors.

As a result, the scanty available information about GOP stock collections comes partly from voluntary disclosure: Former Dallas Mayor Erik Jonsson, a founder of that city's Texas Instruments Inc., says he contributed \$25,700 in stock through several committees. And it comes partly from awkward leaks: In connection with the Watergate hugging, it was disclosed that Roy Winchester, an executive Houston-based Pennzoil Co., and a colleague delivered a suitcase stuffed with \$550,000 in stock and checks plus \$150,000 in cash to reelection headquarters on the night of April 5, just in time to beat the disclosure deadline.

#### DEMOCRATS, TOO

The Democrats, it should be noted, are using somewhat similar tactics. George McGovern's moneyman have organized as many as 350 committees, many serving no purpose except to supply multiple gift-tax exclusions for big contributors. But there are differences. The McGovern committees weren't set up secretly and didn't quickly disappear; they are registered with the GAO, and donors to them are listed on public records. Obviously, too, the strapped Democrats are getting far less stock than are the Republicans.

While most donors to the GOP dummy organizations remain unidentified, at least one list of the organizations wasn't destroyed. Its survival could become a costly embarrassment to the Republican cause.

One reason is a question of the legality of the maneuver to avoid payment of gift taxes. In a formal complaint to the GAO, Republican National Chairman Robert Dole has branded the Democratic gift-tax shelters as "illegal;" he apparently was unaware that his own party was involved in similar efforts.

Apart from that, there's no apparent reason for not taxing capital gains from the sale of stock donated to political campaigns. The law doesn't authorize political organizations to qualify for tax-exempt status. Nor has the Internal Revenue Service ever ruled that the income of a political party isn't subject to tax.

#### "SOMEBODY OUGHT TO BE TAXED"

Pending an IRS ruling, the existence of a loophole chiefly benefiting Republicans seems clear enough. Consider: If a contributor sells stock to make a cash contribution, he'd of course pay taxes on any gains. Or, if he gave stock to anyone or any organization except a charity, the recipient would be taxed after sale—on the basis of the donor's original cost. What's different about a political transaction? How can donor and recipient both escape?

While it's true that, at present at least, the donor is avoiding gift and capital-gains taxes on his contribution, it should also be noted that he is giving away money in return for little that is tangible. If he gives to a charity, he can write the gift off of his income tax; he can't write off more than minor gifts to political organizations. If he gives to a family member, the recipient has to pay capital-gains taxes on the stock when it is sold, but the money at least stays in the

family and estate taxes are circumvented; the money is gone forever when you give to a political organization. Cynics suggest that the return to a political contributor can be mighty, but on the surface such return often seems limited to a dinner or two with bigwigs and perhaps a kind note from a President.

Some authorities, especially those with Democratic leanings, say a tax on contributions is inescapable, on the theory that every capital gain constitutes taxable income unless specifically excluded by Congress. "In this situation there's a capital gain and no exclusion or exemption, so somebody ought to be taxed," one tax expert argues.

Republican lawyers disagree. Obviously, the donor can't be taxed because a gift of appreciated property is no different than giving cash, they say. And, they argue, the gain isn't taxable to Mr. Nixon's reelection committee because the cost of the stock and its appreciated value both constitute gifts, not income.

In a previous ruling involving cash donations, the IRS held that a gift to a candidate or a political committee isn't considered income if spent for campaign purposes. "So when a political committee gets stock, sells it immediately and spends the money legitimately, a strong case can certainly be made that the gain isn't taxable, either," says Stanley Ebner, counsel to Finance Chairman Maurice Stans. "Call it a loophole if you like, but that doesn't make it wrong. The same thing happens when you give to charity. The principle is the same."

#### DUCKING IN THE PAST

Whatever the principle, the IRS could afford to duck during previous elections because the revenue loss wasn't large. Though a few donors gave stock in 1964 and 1968, "as far as I know contributions of stock weren't widely solicited in earlier campaigns," says Herbert Alexander, director of the Citizens' Research Foundation of Princeton, N.J., which studies campaign financing. But continued indecision, to say nothing of a ruling favorable to political financiers, would enable practitioners to find similar tax advantages for all sorts of other non-exempt groups, several lawyers say.

On Sept. 11, this newspaper asked the IRS about the consequences of giving appreciated property to political campaigns. Is the capital gain taxable? If so, must political committees file tax returns? What expenses, if any, can they deduct? Who's liable for the tax, if any? Would it be the candidate's reelection committee, the intermediary organizations or, under some circumstances, the donor? No answers have come so far.

The questions clearly require delicate handling at the top. For if no tax is due, couldn't stock-receiving politicians run for public office partly at Treasury expense?

#### "SACRIFICIAL COMMITMENTS"

To the extent that they can, Republicans seem eager to help the IRS avoid having to determine the tax status of a political organization. After collecting the early \$10 million for the President's campaign, his reelection committee let the money lie idle in four Washington banks. Finance Chairman Stans passed up interest of perhaps \$100,000 to avoid disclosing any earned income on campaign finance statements filed with the GAO—and perhaps to keep the IRS from having to decide whether it's taxable.

Before the disclosure law took effect, Mr. Nixon's money men expressed no tax doubts in soliciting gifts of stock. On the contrary, such fund-raisers as Mr. Pike emphasized the tax advantages in hopes of landing extra-large contributions.

Indeed, the presumed tax advantages emboldened Mr. Pike to ask friends and associates for contributions equal to 0.5%, "more or less," of their net worth. Early gifts would beat the April deadline for disclosure, "which we all naturally want to avoid," he added. And Mr. Nixon would be apprised "personally" of the donor's "sacrificial commitments to the President's reelection."

"The simplest and most painless way to do this," Mr. Pike wrote, "is by giving appreciated, low-cost securities to several committees (whose names I can supply) in amounts of \$3,000 to each committee. In this way neither gift tax nor capital-gains tax liability is incurred, and I can easily explain to you the mechanics of doing it."

By "committees," Mr. Pike meant the 50-name list of organizations dreamed up at reelection headquarters, and along with that list, he or some other fund-raiser distributed copies of a suggested sample letter to Hugh Sloan Jr., then Mr.

Nixon's campaign treasurer; Mr. Sloan resigned for "personal reasons" after the Watergate bugging incident.

"I hand you herewith the following securities," the sample letter said, asking donors to list the shares to be donated and the name of the issuing company.

#### THE SAMPLE LETTER

"I am delivering this stock to you as my agent to effect transfer thereof as herein set forth," the letter says. "You are authorized and directed to divide this stock into certificates with values of not to exceed \$3,000 each, on the date of transfer, and to cause one of the certificates, as my agent for such purpose, to be transferred to each of the following separate entities:"

Then in a blank space covering four inches the donor was invited to write the names of dummy committees, picking favored titles from the 50-name list and choosing one entity for every \$3,000 worth of stocks.

"It is my intent," the sample letter concluded, "to make a separate and individual contribution of not to exceed \$3,000 to each of the hereinabove specifically named entities."

At that point, a supporter giving stock to Mr. Nixon's campaign through the Better Society Committee, Dedicated Americans for a Better America or the Improved Society Council had no cause to be inquisitive about the officers of these organizations. But in June the IRS issued a gift-tax ruling that should arouse the donor's curiosity.

In brief, the IRS held that big contributors could continue to enjoy multiple exclusions by funneling the gifts through numerous committees—but only if the officers were different at least to the extent of one-third. Accordingly, contributors being dunned for gift taxes must ask reelection headquarters for the names (the GOP won't freely issue lists), and if Mr. Sloan forgot to equip the extinct entities with proper officers, donors to them must pay.

In any case, Republican Chairman Dole has cast doubt on his own party's scheme for getting around the gift tax. In his complaint to the GAO about the opposition's fund-raising tactics, he declared that "paper committees" set up by the McGovern campaigners "illegally facilitate the avoidance of federal gift-tax payments."

[From the Washington Post, Oct. 22, 1972]

#### "WITH EFFORT, CAMPAIGN DONORS CAN AVOID DISCLOSURE"

(By Martha M. Hamilton)

Avoiding campaign finance disclosure isn't as easy as it used to be, but for the determined, it is still possible, researchers say.

The Federal Corrupt Practices and Political Activities Act was replaced April 7 by the more explicit Federal Election Campaign Act.

The old law was pockmarked with "not really loopholes—just gaps where the law was silent," as James H. Duffy, chief counsel to the Senate Subcommittee on Privileges and Elections, said.

Dwayne O. Andreas, a Minnesota soybean magnate, walked through one of those gaps with a \$25,000 contribution in support of President Nixon's re-election campaign. That money ended up in the bank account of one of the men arrested at Democratic National Committee headquarters at the Watergate.

The 1925 Federal Corrupt Practices Act declared contributions to a candidate or a committee in excess of \$5,000 were illegal. One way to get around the requirement was to divide larger contributions among different committees to pare down the amount to less than \$5,000 for each.

The multiple committee subterfuge was "immoral and unethical but not illegal," Duffy said. Whether violation of intent of the Federal Corrupt Practices Act was a violation of the law itself was never tested in court because both parties did it, he said.

"Mr. and Mrs. Andreas agreed to contribute \$25,000 to Committees for the Re-election of the President," said Maurice Stans, chairman of the Finance Committee to Reelect the President, replying to a General Accounting Office report charging his committee with apparent violations of new election laws. Besides stressing the plural of committee, Stans noted that Andreas' contribution was completed before April 7, and not subject to the new law.



One way to get around the intent of the new law—which requires disclosure to the public of who contributes to which candidate—was to collect the bulk of a campaign's finances before the law went into effect.

Researchers for Common Cause's campaign monitoring project point to a number of candidates with what they believe are large amounts of cash on hand before April 7. Individual contributors could avoid having donations made public by getting them in under the line.

One of these, Sen. Jack Miller (R-Iowa), listed \$202,581.21 on hand when the new law took hold. As of Aug. 31, only \$34,561.22 had been added to that amount. Miller won 84.4 per cent of the votes in the primary and "there is very indication that he's going to win in November," according to campaign director George Wilson. Most of the money on hand on April 7 was collected at a May, 1971, fund-raising dinner, Wilson said. Some 3,500 tickets for \$50 each were sold, he said.

The Committee for the Reelection of the President, which collected more than \$10 million from undisclosed contributors before the April 7 deadline, tried to keep secret another campaign finance gimmick. Under this one, taxes, not disclosure, were avoided by having the committee that handled the contributions self-destruct before April 7, *The Wall Street Journal* reported.

The committees, with names like the Better America Council and United Friends of Good Government, were created to accept gifts of appreciated stocks to sell. The stock was parceled out so that each committee received no more than \$1,000 worth. Gifts of \$3,000 or less are not subject to a gift tax. Both parties have created multiple committees to help donors avoid that tax.

If the donors had sold the stock themselves, they would have paid a capital gains tax on the difference between the price at which it was purchased and the price for which it was sold. Because the campaign committee sold it, they will pay no tax on the increase in the stock's value which was a gift rather than income. Political donors who contribute from income (on contributions of more than \$25) are giving money in which probably they have paid taxes or will.

Though it won't be possible to obscure large individual contributions in the future by beating the deadline, a few avenues will remain open for benefactors who want to keep their names out of public view.

For instance, the last report on campaign finances in federal elections is supposed to be complete as of at least 10 days before the election. But, to insure the disclosure of large, lump-sum contributions at the last minute, the law adds that contributions of \$5,000 or more received after the last report prior to the election must be disclosed within 48 hours after they are received.

But there is a loophole.

Those who contribute up to \$4,999 can remain anonymous until after the election.

There are other ways to obscure financial backing. Campaign contributions of \$100 or less are not required to be listed by donor, with name, address, occupation and principal place of business. In the case of candidates who list a substantial portion of contributions as unitemized (\$100 or less), Common Cause monitors suspect the size of donations may have been calculated to avoid disclosure.

Suspicion is strongest when the candidate in question has surrounded himself with an unusually large number of campaign committees. Multiple committees would make it easier to parcel out large contributions.

As of June 7, Sen. John McClellan (D-Ark.), with 12 campaign committees, had collected \$52,828.50 in unitemized receipts—almost half of his \$105,490.50 total, according to Common Cause's Tom Pokorni. Rep. Frank A. Stubblefield (D-Ky.) had collected \$6,625 of his \$13,855 on hand as of June 10, through unitemized contributions. Stubblefield lists 14 campaign committees.

Another type of anonymity—earmarked contributions—may not survive testing as enforcement of the new law takes shape. Earmarking allows an organization or an individual to contribute to a committee which contributes to a number of candidates and designate which candidate should receive the money. In the candidate's records the gift shows up only as a donation from, for instance, the Democratic Congressional Campaign Committee.

BANKPAC, the Banking Profession Political Action Committee, has said that it may earmark money to save candidates the onus of taking money from the banking industry. An article in the *American Banker*, inserted in the *Congressional Record* by banking foe Wright Patman (D-Tex.), said: "It seems reasonable . . . to expect that, in view of the unfavorable publicity two years ago,

many of the BANKPAC beneficiaries will request the checks be routed anonymously to them through the national party organization."

The device is "used by many lobbies to disguise the source of campaign contributions—a procedure that is still legal under the new law . . ." the American Banker said.

Herbert Alexander, director of the Citizens Research Foundation of Princeton, N.J., disputes this. "No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person," section 310 of the law states. This includes committees, Alexander contends.

Both Duffy and Alexander think the new law is about as good as it reasonably can be. Requiring reports on contributions of less than \$100 would be too cumbersome, they suggest. No one would be able to wade through the volume of material such a requirement would produce in order to discover big contributors, Alexander said.

"We need to reshape the personalities of the donors and campaign treasurers," not the law, Duffy said.

[From the Washington Post, Nov. 12, 1972]

#### POLITICAL DONORS USED COMMITTEES TO HIDE DIRECT CAMPAIGN GIFTS

(By Morton Mintz)

Special interests and persons associated with them frequently "laundered" campaign contributions earmarked for particular candidates so that voters could not detect them in financial reports the candidates filed in the recent elections, a survey of public records shows.

Usually, business, labor and other interests seeking to hide a connection with candidates passed earmarked gifts through one or more intermediaries, especially the Democratic and Republican campaign committees on Capitol Hill. The candidates then listed these committees rather than the original contributors.

How much earmarked money was contributed by sources that effectively bleached out a relationship with candidates is unknown and probably unknowable, but it is believed to be millions of dollars.

The National Committee for the Re-election of a Democratic Congress filed reports showing that it alone transmitted \$415,753 in earmarked money through two conduits, the Democratic Congressional and Senatorial Campaign Committees, between Sept. 1 and Oct. 26.

The money, much of it given by persons opposing or cool to presidential candidate George McGovern, was funneled out to 133 House and 23 Senate candidates pre-selected by donors who preferred not to donate to them directly. Many—but not all—of the recipients were elected, helping the Democratic Party to retain control of the House and to gain two seats in the Senate.

In one case cited by Common Cause, a citizens' lobby, the National Committee listed a \$1,000 contribution from Robert L. Boyle, publisher of The Hudson Dispatch in Union City, N.J. An attachment on "encumbered" funds said that \$500 from Boyle was intended for Rep. James J. Howard (D-N.J.) and would be passed to him through the Congressional Campaign Committee.

But as of Oct. 23, well after the money was transmitted, Howard's own reports do not mention the name of newspaper publisher Boyle while showing \$2,500 in contributions from the Campaign Committee. It is the reports of a candidate that the public is mostly likely to examine, either in a state capitol or in Washington.

Although most candidates were believed to have filed reports that omitted mention congressional sources of gifts donated through the re-election and campaign committees, a few took pains to disclose these sources. One who did was Sen. Walter F. Mondale (D-Minn.).

Even final pre-election reports, such as his, however, do not reflect contributions listed by the re-election committee but received by candidates after Oct. 26; all such contributions will not show up on candidates' reports until the post-election filings next Jan. 31.

The director of Common Cause's Campaign Finance Monitoring Project, Frederic M. Wertheimer, charges that earmarking that conceals original donors in candidates' reports violates the new Federal Election Campaign Act and makes a "charade" out of it. Wertheimer disclosed that Common Cause is considering filing a lawsuit based on Section 310 of the law, which says:

"No person (defined as any 'individual, partnership, committee, association, corporation, labor organization or group or persons') shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person."

Further examples discovered by the monitoring project of how actual contributors failed to be identified in candidates' financial reports filed in Washington and state capitols under the new law, which took effect April 7:

On May 5, the Machinists Nonpartisan Political League gave \$2,887 to the Arkansas branch of the Committee on Political Education (COPE), another affiliate of the AFL-CIO. Three days later, COPE passed the identical sum to Rep. David Pryor (D-Ark.), who was setting to unseat Sen. John L. McClellan (D). The Pryor Campaign Committee, in a report on May 15, reflected a contribution from Arkansas COPE, but in no way identified the actual donor, the Machinists unit. Similar transactions took place involving Pryor, the political arm of the Communications Workers of America (AFL-CIO) and Arkansas COPE.

The Builders Political Campaign Committee (BPCC), an affiliate of the National Association of Home Builders, implicitly acknowledged on registering with the House Clerk that it expected to receive and transmit earmarked contributions. On May 28 and June 2, BPCC, without naming the actual donors, said it had received contributions totaling \$3,600 for transfer to Sens. John J. Sparkman (D-Ala.) and Mark O. Hatfield (R-Ore.); and Reps. Walter S. Baring (D-Nev.), William Anderson (D-Tenn.) and Frank Annunzio (D-Ill.).

Each of the candidates reported gifts from BPCC (or its predecessor, the Builders Political Action Committee); none disclosed the actual contributor or the earmarking.

The General Telephone Employees' Good Government Club contributed \$1,000 to the Republican Congressional Boosters Club, but told the House Clerk, in a letter, that \$500 each was to go to two House candidates in California. William Ketchum and Carlos Moorhead, if they survived the June 6 primary. On Sept. 10, the Boosters Club listed transfers to Ketchum of \$5,000 and of \$7,500 to Moorhead; but the candidates' own reports do not name the Good Government Club as contributors.

The executive committee of the Banking Profession Political Action Committee "will decide which candidates it would like to help," The American Banker, an industry newspaper, said last June 2 in a story on a speech by William A. Glassford, BANKPAC's executive director.

Then, "each candidate will be approached and asked whether he would like a BANKPAC contribution, and how he would like the payments made," the story said.

"Mr. Glassford also said that BANKPAC was more likely this year to route checks through Republican and Democratic party campaign committees rather than sending them directly to the candidates," reporter Joseph Hutnyan continued. "This is a device used by many lobbies to disguise the source of campaign contributions..."

BANKPAC reported contributions between Aug. 31 and Oct. 16 of \$18,000 to the Republican Senatorial Campaign Committee, \$8,500 to the Republican Congressional Campaign Committee, \$5,000 to the Democratic Congressional Campaign Committee and \$2,500 to the Ohio Republican Finance Committee. During the same period BANKPAC gave \$35,050 to specified incumbents on the Senate and House Banking Committees and the House Ways and Means Committee.

Simultaneously, the political arms of the National Association of Real Estate Boards (REPEC) gave \$56,250 to incumbents, most of them on committee dealing with real estate matters. Then on Oct. 19, H. Jackson Pontius, executive vice president of the association, gave \$5,000 on behalf of REPEC to the National Committee for the Re-election of a Democratic Congress; six days later, REPEC gave \$25,000 to the National Republican Senatorial Campaign Committee.

Between Sept. 28 and Oct. 13, the Mortgage Bankers Political Action Committee gave \$4,000 to the Democratic Senatorial Campaign Committee and separate gifts of \$1,200, \$500 and \$300 to the Democratic Congressional Campaign Committee.

Four political arms of three milk producers' organizations that seek to increase public subsidies for dairy products gave President Nixon's re-election drives more than \$300,000 in 1971 and \$50,300 since last April.

In the period Sept. 1 through Oct. 16 the dairy interests reported contributions of \$188,050 to 90 incumbent and 19 non-incumbent House and Senate candidates. Of the total, \$130,600 went to 6 Democrats and \$57,450 to 44 Republicans.

Since April 7, approximately \$700,000 has flowed into the four dairy committees. Yet, Common Cause pointed out, none of them "has specified where the money . . . has come from," although the new law requires identification of every person donating more than \$100. A spokesman for the General Accounting Office told a reporter that the GAO plans to look into this.

The spigot was opened wide in the 10 days starting Oct. 27, when the Committee for Thorough Agricultural Political Education (CTAPE), an arm of the Associated Milk Producers, Inc., in San Antonio, not only gave an additional \$98,000 to 60 named House and Senate candidates, but \$175,000 to the Republican Congressional Campaign Committee, \$177,500 to the GOP Senatorial Campaign Committee, \$72,000 to the Democratic Senatorial Campaign Committee and \$62,500 to the Democratic Congressional Campaign Committee.

A spokesman for the Republican Congressional Campaign Committee said the \$175,000 it received on Oct. 27 was not earmarked. However, spokesmen for the other committees could not be reached. C-TAPE's secretary, Bob A. Lilly did not return a reporter's phone call.

The National Committee for Re-election of a Democratic Congress, whose co chairman is Robert Strauss, former treasurer of the Democratic National Committee, raised \$711,595 by Oct. 26. All but \$148,075 of the \$503,831 it gave to the Capitol Hill campaign committees had been earmarked by contributors for particular candidates.

The largest contributor was Lawrence Weinberg, a Los Angeles builder who had loaned \$95,000 to McGovern's presidential campaign. He gave \$96,049.

Of the total, \$43,888 was earmarked for 16 Senate candidates, including conservatives such as Sam Nunn of Georgia, and liberals such as Walter F. Mondale of Minnesota. An additional \$43,200 was earmarked for 18 incumbent California congressmen, three congressional candidates in California, and Rep. Jack Brooks (D-Texas).

Stanley Goldblum, president of Los Angeles investment company, Equity Funding, was listed for a contribution of \$44,948, although his earmarked gifts possibly because of a book-keeping error, came to \$4,500 more. He distributed \$12,000 to two losing Senate candidates, Frank Kelly of Michigan and Barefoot Sanders of Texas, and \$37,440 to 36 House candidates, of whom 18 were California incumbents.

Howard E. Saff, president of Adlay Jewelry of New York, loaned the committee \$90,000 earmarking \$5,000 for three Senate candidates and \$66,500 for 34 House candidates. Again the gifts ranged over the political spectrum from Rep. Richard H. Ichord (Mo.), chairman of the House Internal Security Committee, who got \$10,000, to Rep. Andy Jacobs, the Indiana liberal, who got \$2,000.

James H. Rowe Jr., treasurer of the National Committee for the Re-election of a Democratic Congress, and Thomas G. (Tommy the Cork) Corcoran, partner in a Washington law firm with numerous big-business clients, each gave \$2,500 to be split evenly among five Senate candidates. A third member of the firm, Edward H. Foley, gave \$1,000 to a House candidate.

Additional earmarked contributions included \$12,500 from persons associated with United Artists, \$12,000 from the president of Music Corp. of America (two other MCA executives together gave \$191,186 to President Nixon), and \$5,000 from the president of Union Bank of California.

On Aug. 1, Common Cause complained of earmarking discovered by its monitoring project in letters to the administrators of the law on Capitol Hill. Clerk of the House W. Pat Jennings and Secretary of the Senate Francis E. Valeo. The letter inquired if Section 310 applied—a touchy point because of the involvement in earmarking of congressional campaign committees.

Jennings and Valeo each replied, in part, that Common Cause had not supplied specific cases.

Then, on Oct. 20, Common Cause Chairman John W. Gardner filed formal complaints with the two officials.

Earmarking is "widespread" and is "flagrantly undermining the fundamental purpose of the new law—to allow the voting public to determine who the actual financial backers are for each candidate," Gardner charged.

House Clerk Jennings and Senate Secretary Valeo, in letters to Gardner, denied the Common Cause charge that the examples showed the law had been violated. There was "no evidence . . . of the deliberate misrepresentation which we take to be the intended target of Section 310," Valeo said.

The Senate official recognized, however, "that earmarking can be used as a means of evading the spirit of the act."

He and Jennings said that together with the administrator of law for presidential contests, Comptroller General Elmer B. Staats, they are considering tightening the rules on earmarking.

They also mentioned the possibility of referring to congressional committees whether the law should be revised. Common Cause's Wertheimer contends the law as it stands prohibits earmarking, in which candidates' reports do not reveal original contributors.

Eventually, the courts may decide whether Wertheimer's contention is correct. In the meantime, however, Congress could move to legitimize such earmarking. That would seem to be more likely than a move to ban it explicitly.

Eventually, the courts may decide whether Wertheimer's contention is correct. But Congress—many of whose members obviously benefit from such earmarking—could well move to legitimize it. "This would gut the present law that was almost a half-century in the making," Wertheimer said.

Philip S. Hughes, director of the Office of Federal Elections in the General Accounting Office, said the GAO is concerned that earmarking "may constitute a failure of disclosure" and is considering for presidential regulations a new rule:

To require "the committee of the candidate for whom the contribution is earmarked to be given the identity of the donor by the political committee that initially receives the contribution," and to require, moreover, "the candidate's committee to report that identity to our office in addition to reporting the identity of the transferring committee."

Earmarking was going on long before the Federal Election Campaign Act took effect. Former Sen. Joseph S. Clark (D-Pa.), accusing the Capitol Hill committees of being "to a substantial extent prisoners of the lobbies," said in his 1961 book, "Congress: The Sapless Branch":

"... The conservative oil and gas lobbies, which contribute so heavily to the Democratic Senatorial Campaign Committee, had not the slightest interest in the re-election of Senator Paul Douglas of Illinois in 1960, he having been a staunch advocate of cutting the depletion allowance.

"But they were vitally interested in the re-election of the late Senator Bob Kerr of Oklahoma, who was the most articulate spokesman for the oil interests in the Senate.

"Quite naturally Senator Kerr received a very much larger contribution from the Senatorial Campaign Committee than Senator Douglas. The lobbies quietly earmarked their contribution to the committee for Senator Kerr, and the committee, as an implicit condition for receiving the money, sent it to Oklahoma, where it wasn't needed, rather than to Illinois, where it was."

[From the Washington Star, Jan. 3, 1973]

#### NEW YORK BUILDER USED CAMPAIGN LAW GAP

(By James R. Polk)

New York's City's largest apartment builder used company funds to make thousands of dollars in secret campaign donations for President Nixon last year.

The money came out of bank accounts for leasing companies for various apartment projects of builder Samuel J. Lefrak. It was sent to the Nixon campaign through dozens of checks written for only \$90 each.

Because of a gap in the law against any campaign donations by a corporation, all of the contributions are legal. The Lefrak companies are set up as individually owned business, not as corporations.

The money poured into the Nixon headquarters in the final week before the new campaign disclosure law took effect April 7.

#### NO EXPLANATION

Lefrak officials acknowledged the donations when interviewed last week, but gave no explanation for the many \$90 checks. The company vice president who signed the checks, died in November.

Lefrak, 54, is New York City's largest private landlord. He has said one out of every 16 persons lives in an apartment built by his firms.

The Justice Department brought a racial discrimination suit against the Lefrak companies, but settled it out of court in early 1971 in what Lefrak called an historic agreement to "make open housing in our cities a reality."

Lefrak, regarded as a liberal in New York politics, could not be reached for comment on his firms' donations for Nixon.

#### NIXON ACCOUNTS

The checks were written on bank accounts such as the Ceylon Leasing Co., the Argentine Leasing Co., the Kentucky Leasing Co., and others.

Usually a set of three \$90 checks from separate leasing firms were deposited in each of the many Nixon accounts, such as "United Friends of Government Reform," that were used before the April 7 deadline.

"There were no corporate contributions," said a Lefrak official.

About 40 checks on 23 different companies are known to exist for a total of about \$3,000. The full amount is thought to approach \$10,000, but the Lefrak firms did not furnish any figure.

Both the old Corrupt Practices Act, in effect at that time, and the new campaign law forbid political donations by corporations. But this does not cover other businesses set up as partnerships or proprietorships.

The Chemical Bank of New York, when asked about the accounts for three of the firms—Federal Leasing, Wisconsin Leasing and Wyoming Leasing—verified that they were set up as companies owned individually by Samuel Lefrak, doing business under those names.

A second bank confirmed the same arrangement in another inquiry on Grand Leasing Co.

But no explanation could be obtained on why all the \$90 checks were used, making it difficult to trace the Lefrak money.

The checks were signed by Leonard B. Schoffman, 55, who died eight months later of a heart attack Nov. 24.

His brother, Irwin, also a Lefrak official, said he did not know the reason for the \$90 method. He said accountants did not have a ready total for the amount of donations, but stressed that no corporate money was involved.

In a federal trial in May, the Justice Department presented evidence of a \$2,000 advertising bill paid by a Lefrak corporation in a losing candidate's race for mayor in New York City.

The prosecutor told the court that the Lefrak firm and other New York corporations had deducted the political payments from their income taxes. The Lefrak firm was named in the indictment as a co-conspirator, but was not charged with any crime.

A Brooklyn judge who was a campaign official in that race was acquitted in the trial for perjury and conspiracy. But a government source said the Internal Revenue Service is trying to collect a tax penalty from the Lefrak company.

Political expenses are not tax-deductible.

The discrimination suit against the Lefrak Organization charged civil rights violations of the Fair Housing Act of 1968. It accused the companies of channeling blacks to certain buildings while placing only whites in others.

Lefrak denied the charges. The Justice Department case was settled two years ago with Lefrak agreeing to rent thousands of apartments in Brooklyn on a first-come, first served basis.

The Lefrak apartment empire includes a cluster of 20 high-rise towers known as Lefrak City in Queens, another major complex in Forest Hills, and other projects in Brooklyn, the Bronx, Manhattan and the New York suburbs.

[From the Washington Star, June 6, 1972]

#### HUMPHREY DONATIONS—BROKER FACES CAMPAIGN FUND PROBE

(By James R. Polk)

*(James R. Polk is a former Associated Press investigative reporter who is now doing campaign finance research under a grant from the Fund for Investigative Journalism)*

The Justice Department is weighing possible prosecution of a New York investment banker for \$48,000 in campaign contributions to Sen. Hubert H. Humphrey, D-Minn., made under other persons' names.

The case, involving financier John L. Loeb and his wife, is the first sent to Justice under the new campaign contribution law.

Humphrey's headquarters had listed the Loeb money in a sworn report last month as coming in separate donations of \$8,000 each from eight different persons in New York City. An inquiry showed six of the eight did not exist at the addresses given.

While a probe was underway, Loeb and his wife wrote a letter saying "these contributions were made possible by them," a Humphrey aide said last night.

#### KEY BACKER IN 1968

The campaign law says, "No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person."

Conviction could carry jail terms of one year and \$1,000 fines for each person involved.

A check today found seven of the eight persons whose names were used are employees of Loeb's investment firm. The eighth is the personal secretary to his wife.

Loeb, 60, is a senior partner of the Wall Street brokerage house of Loeb, Rhoades & Co. He was a major backer in Humphrey's 1968 race, providing a \$100,000 loan that was never repaid in the debt-ridden campaign.

The Loeb investigation looms as still another blow to Humphrey, coming on the eve of his crucial Democratic presidential primary showdown in California today against favored Sen. George S. McGovern, D-S.D.

#### NEWSMAN'S OBSERVATION

It burst into the open when it did only because Humphrey's campaign treasurer, Paul R. Thatcher, sent a letter yesterday to the watchdog General Accounting Office (GAO) saying Loeb and his wife were responsible for the \$48,000.

The GAO immediately sent the case to the Justice Department as "a possible violation" of the new law. It was learned the department would launch its own probe today and probably send FBI agents to question all persons involved as a preliminary to possible prosecution.

The GAO inquiry was begun late last month after a newsman representing The Star noticed the Humphrey campaign reports listed eight similar donations of \$8,000 each, often using what seemed to be the name of a young single woman in a New York bank address.

Five of the donors named—Carol L. Novak, Sybil M. Senoff, Anne E. Schmitt, Arthur Griffiths and Donald and Jeanne Sheehan—did not exist at the banks listed, the First City National Bank, Manufacturers Hanover Trust Co., and a Chemical Bank branch. Another woman could not be located at a Brooklyn address given.

#### ON SAME DAY

One donor named, Miss Yudit J. Uselyte, told The Star last month that she did make the contribution, but then she gave an incorrect amount when asked about it. She said, "Do I have to answer any of this?" and didn't.

Arthur W. Sebastian Jr. of New York, also named for \$8,000 in the Humphrey report, said last night, "I have no comment on that."

Asked if he were an employee of Loeb, Rhoades, he hung up the telephone.

A Humphrey press spokesman had insisted last week that the addresses were part of the information that accompanied the checks and said, "We have no reason to question it or ferret it out."

In a statement issued last night, Thatcher said the checks for the \$48,000 came in amid more than 100 other donations received the same day, May 12, and were duly reported under the various names in a May 22 campaign filing. He said the Loeb wrote Friday that they had made the donations possible.

The Loeb statement was attached to Thatcher's own letter to the GAO yesterday asking the eight donations be changed on the records to show contributions of \$24,000 each from the Wall Street broker and his wife, Frances.

Thatcher said the Loeb had been unfamiliar with the new Election Campaign Act. Loeb could not be reached for comment.

[From the New York Times, Oct. 7, 1972]

**THREE-JUDGE U.S. COURT TO GET CAMPAIGN-LAW CHALLENGE**

(By Ben A. Franklin)

WASHINGTON, October 3.—United States District Judge Barrington D. Parker said today that he would convene a special three-judge Federal court to hear a constitutional challenge filed by the American Civil Liberties Union against the new Federal Election Campaign Act.

Judge Parker also granted the petition of The New York Times to intervene in behalf of the union as a friend of the court. The case involves the refusal of The Times to accept an advertisement from the civil liberties organization for fear of prosecution under the new act—a fear that the newspaper's lawyer today called "clearly unconstitutional prior restraint of freedom of the press."

The judge refused, however, to grant the temporary restraining order against enforcement of the law that had been sought by the organization. The Justice Department opposed both the granting of a three-judge court and the emergency restraining order.

The Finance Committee to Re-elect the President, President Nixon's chief campaign treasury, has also raised constitutional objections on a different point—the forced disclosure of the names of campaign contributors. That dispute involves the old Federal Corrupt Practices Act, but a decision upholding the Nixon Finance Committee would apparently endanger similar mandatory disclosure under the new law, as well.

The A.C.L.U.-Times case contends that regulations under the new law that are designed to enforce campaign media spending limits on Federal candidates have the effect of restraining newspapers from freely accepting "nonpartisan, issue-oriented" ads from such groups as the civil liberties union without fear of penalties for violating the law.

One Federal regulation based on the act makes it a violation for a newspaper to accept payment for an advertisement "directly or indirectly" supporting the candidacy of any Federal office-seeker, even if the ad is placed by others, unless the candidate mentioned has certified his authorization of the ad.

For an "issue-oriented" non-partisan group like the civil liberties organization, which is forbidden by its by-laws to endorse candidates, this has the effect, the suit contends, of giving candidates who may be named incidentally in an "issue-oriented" ad a veto power over free speech.

The liberties organization contends, further, that its compliance with the law could result in a requirement that it register as a "political committee." The suit contends that the organization could then be forced to disclose the identity of its members and contributors, and that they would be subject to threats, intimidation and a loss of the freedom of speech and freedom of association guaranteed by the First Amendment to the Constitution.

[From the Washington Star, Oct. 21, 1972]

**ELECTION LAW SUIT LOOKS LIKE WINNER**

(By Barry Kalb)

A lawsuit by the American Civil Liberties Union challenging the constitutionality of sections of the new Federal Election Campaign Act has been taken under advisement, with the judges leaving little doubt that they agree with the ACLU.

The ACLU and its New York affiliate filed the suit after The New York Times refused to accept a political advertisement submitted by the organization last month, because, the Times said, the organizations had not complied with FECA regulations.

The Times joined in the suit on the side of the ACLU, acting as a "friend of the court," to argue that the act has the effect of violating First Amendment rights of free speech and a free press.

**SURFACE OF INTEREST**

David Anderson, arguing the case for the Justice Department, said before a three-judge panel yesterday that while some abridgment of free speech might result from the act, this was only "incidental" to the purpose of the act.



U.S. District Court Judge William B. Bryant responded to this, with some annoyance in his voice, "In a democratic society, when you stop people from talking and writing about something which is right on the surface of public interest, how can you muster up enough courage to say that is incidental?"

Although their comments were not as pointed, Chief Judge David L. Bazelon of the U.S. Court of Appeals and District Court Judge Barrington D. Parker indicated that they agreed with Bryant.

#### PRIOR RESTRAINT

The advertisement in question was a criticism of pending anti-busing legislation backed by the Nixon administration, and was critical of the President himself.

The ad also carried the names of 102 members of Congress who had spoken out against the legislation, in order to "praise them," ACLU general counsel Marvin Karpatkin told the judges.

Although the legislation died in Congress, Karpatkin said, the ACLU wishes to modify the ad to criticize a proposed constitutional amendment outlawing busing solely to achieve racial balance, which is also backed by the administration.

However, he argued, the FECA makes this difficult, if not impossible, and therefore amounts to an unconstitutional prior restraint on the press.

#### VIRTUAL VETO POWER

Two major provisions of the act are being challenged. One says that when a federal candidate's name is mentioned in an ad in what can be considered a favorable fashion, the cost of all or part of the ad must be levied against that candidate's campaign spending limit as set by the act, and says that when a federal candidate can— that the candidate must file a statement saying the ad will not put him over his spending limit.

The second says that if a federal candidate is criticized in an ad—Nixon in his case—the ad must contain a statement that the ad has not been paid for by the opposing candidate—Sen. George S. McGovern in this case.

The first provision, the ACLU contends, gives a candidate virtual veto power over the political statements of others, since the candidate could simply refuse to give the required statement.

Anderson told the judges that the act had been improperly interpreted in this case, and that the ACLU ad would have been allowed.

But Bazelon noted that this confusion lends credence to the ACLU claims that the act is unconstitutionally vague.

[From the New York Times, Oct. 27, 1972]

#### COURT QUESTIONS NEW CAMPAIGN ACT

##### U.S. PANEL SAYS LAW MAY "CHILL" FREEDOM OF SPEECH

(By Ben A. Franklin)

WASHINGTON, Oct. 26—A special three-judge court ruled preliminary here today that the new Federal Election Campaign Act, requiring candidates for President and Congress to disclose their finances, "plainly presents substantial questions of constitutionality." The court said the law may "substantially chill" the First Amendment right of free speech.

The judicial finding, which threatens the constitutional validity of the reform-oriented act came in response to a lawsuit filed by the American Civil Liberties Union and its New York State affiliate, joined as a friend of the court in by The New York Times. The court will issue a final decision later.

The special panel that was convened last week to hear the case—Chief Judge David L. Bazelon of the United States Court of Appeals for the District of Columbia and District Judges Barrington D. Parker and William B. Bryant—signed an order today barring the Justice Department from prosecuting either the ACLU or The Times for publishing an ACLU advertisement which has been the focus of the dispute. The ad is in this issue of The Times.

The advertisement lists what it terms an "honor roll" of 102 members of the House of Representatives who voted against the Nixon Administration's antibusing bill.

For fear of prosecution under a provision of the new election act, which requires newspapers to obtain certificates from candidates for Federal office named in such ads. The Times reluctantly rejected it on Sept. 22.

Saying that compliance with the certification section of the law might make it liable to the act's public disclosure provisions and expose the House members to reprisal and harassment, the A.C.L.U., sued to enjoin enforcement on the ground that it threatened freedom of association. The Times' plea contended that the newspaper was being subjected to unconstitutional prior restraint of publication.

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[From the Washington Post, Nov. 1, 1972]

#### ACLU SIDES WITH GOP ON DONATION SECRECY

(By John P. Mackenzie)

The American Civil Liberties Union took the side of President Nixon's campaign fund-raising committee yesterday, telling the U.S. District Court here that federal political contribution disclosure laws are unconstitutional.

In a brief filed as friend of the court, the ACLU said the 1925 Corrupt Practices Act, by which the citizen lobby Common Cause withheld its consent the names of secret Nixon donors, violates the right of individuals to make anonymous political donations.

This is roughly the same argument made by the Finance Committee to Re-elect the President and by GOP campaign officials in resisting attempts to disturb the confidentiality of more than \$10 million in donations given before April 7 under a promise of anonymity.

Lawyers for the Republican fund raisers cheerfully consented to the filing of the ACLU brief with District Judge Joseph C. Waddy, who has scheduled a trial in the lawsuit for 10 a.m. today. Common Cause withheld its consent to the filing.

The issue in the suit is whether the 1925 law, under which political committees were required to file publicly all contributions of \$100 and over, can be used to force the GOP committee to disclose the names of contributors who gave before April 7, when new reporting rules took effect under the 1971 federal election act.

The fund raisers are asking Judge Waddy to rule that the old law did not cover the Nixon campaign money but that if it does, it is unconstitutional.

Both the ACLU and the Nixon lawyers cited decisions of the Supreme Court under former Chief Justice Earl Warren to back up their claims that the disclosure law sweeps too broadly, all the way down to small donors who have relatively little impact on the political process. The ACLU and the fund raisers agreed that decisions upholding the old law were rendered before the Supreme Court recognized the chilling effect on such laws on political activity.

A Republican request to block the trial was rejected late yesterday by Chief Justice Warren E. Burger. The finance committee said the trial itself poses threats of irreparable harm to the campaign. Burger said any harm could come "only from an adverse judgment," which the fund raisers could appeal.

The trial had been scheduled for yesterday but counsel for both sides twice obtained postponements from Judge Waddy. The lawyers said they were working on a "stipulation" that would accelerate the case but they refused to discuss it with reporters.

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[From the Washington Post, Sunday, Nov. 26, 1972]

#### COMPANIES MAY BE FORCED TO BARE CAMPAIGN ACTIVITIES

(By Morton Mintz)

The Securities and Exchange Commission—prodded by a lawsuit—is considering the possibility of compelling corporations to tell their stockholders whether they have committees of executives or employees that collect funds for election campaigns.

Hundreds of corporations and banks have such committees. Some operate completely in the open and take elaborate precautions to assure that contributions are made voluntarily and are distributed, without disclosure, only as the contributors themselves desire.

Others, however, use various and not always subtle pressure tactics to induce contributions to candidates and causes favored by top executives.

In Kingsport, Tenn., Volunteers for Better Government collects contributions in a payroll deduction plan from supervisors and executives of an Eastman Kodak subsidiary, Eastman Chemical. All decisions as to candidates who are to receive the money are made by two company executives and a lawyer for the firm without consultation with the contributors.

The lawsuit grew out of a petition to the SEC filed last March by Public Citizen, Inc., headed by Ralph Nader, and the National Committee for an Effective Congress, a bipartisan civic organization.

Corporations should reveal in their annual reports who runs their political committees, to whom they donate, and how much is given by corporate officers and directors as a group, the petition said.

The SEC should play "a significant role" in implementing provisions of the new Federal Election Campaign Act that are intended to assure full disclosure of segregated funds set up by a corporation for political purposes, the petitioners added.

Two months later, having gotten no response, the petitioners reminded the SEC that this was an election year and suggested that a speedy resolution would serve the public interest.

More than three months after that, on Aug. 25, the SEC rejected the petition.

"The commission believes in the context of the federal securities laws that the disclosure to shareholders requested by the petition is not necessary or appropriate in the public interest or for the protection of investors," SEC secretary Ronald F. Hunt said in a letter to Alan B. Morrison, counsel for Public Citizen.

The disclosure sought in the petition, Hunt continued, "does not reflect upon the investment merits of a security, and thus is not within the realm of the rules that this commission should adopt."

On Sept. 8, Morrison moved in the U.S. Court of Appeals for a summary reversal of the SEC order. The motion was based, he said, "on the total failure of the commission to set forth any reasons for its denial . . ."

The SEC decided not to litigate the issue. Instead, it formally agreed that in exchange for withdrawal of the court action it would "give further consideration to the request made by the petitioners" Morrison accepted the stipulation.

Then, on Oct. 17, the commission announced the result of that consideration: a decision to seek public comment on the merits of a possible amendment to its rules to require disclosure in corporate annual reports and proxy solicitations of information it must file with administrators of the election-financing disclosure law.

A filing deadline of Dec. 15 was set by the commission.

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[From the New York Times, Oct. 6, 1972]

#### "GAO FINDS MANY OMISSIONS IN RECORDS OF MCGOVERN FUNDS"

WASHINGTON, Oct. 6 (AP) —The General Accounting Office said today that records of Senator George McGovern's campaign finances had been inadequate in many instances and it referred three possible violations of the Federal campaign spending law to the Justice Department.

A report by the investigating agency of Congress was released in response to queries by Robert J. Dole, the Republican National chairman.

The agency said that the reporting of transfers of campaign funds between the Democratic Presidential nominee's main committee in Washington and various state and other committees around the country was "replete with errors and inconsistencies which have made tracing and auditing of these transactions very difficult."

"More importantly," the report continued, "these errors and inconsistencies tend to frustrate the disclosure objectives of the Federal Election Campaign Act of 1971."

However, the agency said, "these errors and inconsistencies do not, in our judgment, constitute violations of the act" by the McGovern for President Committee in Washington.

But the agency said that it was referring to the Justice Department three "apparent violations" of the act.

## GOP FUNDS TRACED

## "APPARENT VIOLATIONS" CITED

On another matter, the G.A.O. said that it was referring to the Internal Revenue Service for study information surrounding contributions to Senator McGovern's campaign by Hugh M. Hefner, the publisher of Playboy magazine and by Stewart Mott, a General Motor's heir.

Mr. Dole, in a letter to the auditing agency, had questioned whether contribution from Mr. Hefner and from Mr. Palotsky, former board chairman of Xerox Corporation, had met all requirements of the campaign disclosure act.

The agency suggested that the Mott and Hefner contributions might be at variance with I.R.S. laws but not with the disclosure law. It recommended no action on the Mr. Palotsky's contributions.

The G.A.O. submitted the following McGovern campaign items to the Justice Department for review:

Report on the proceeds from a McGovern fund-raising rally in Madison Square Garden in New York, June 14, that was sponsored by the Business and Professional Men and Women for McGovern. The agency said "we have been unable to find any records identifying the individuals purchasing the tickets.

Contributions from the Americans Abroad for McGovern Committee in London. The group acknowledged that it had accepted contributions from foreign citizens but was refunding them.

A National Labor Committee to Elect McGovern-Shriver newspaper advertisement in which, the accounting office said, there was inadequate identification of the advertisement's sponsors.

## GOP FUNDS TRACED

[Special to the New York Times]

WASHINGTON, Oct. 6—The Federal Bureau of Investigation has identified a \$100,000 campaign contribution collected by Republican party fund raisers in Texas as coming from a bank account controlled by a Texas-based corporation. The Washington Post reported today.

The contribution first came to light when the General Accounting Office reported in August that \$80,000 in checks intended for President Nixon's re-election campaign had been given by a Republic campaign official to one of the five men who were arrested in the Democratic National Committee's headquarters here June 17.

It was later learned that the \$80,000 in the form of four checks drawn on a Mexican bank, had been shipped along with \$11,000 in cash from Mexico City to Houston, and then delivered to the Nixon campaign's offices in Washington.

Hugh W. Sloan Jr., then the Nixon finance committee treasurer, allegedly gave the checks to Bernard L. Barker, who was arrested at the Democratic offices at the Watergate complex, to be converted into cash.

[From the New York Times, Nov. 12, 1972]

## INDICTMENTS EXPECTED SOON IN POLITICAL FUND VIOLATIONS

(By Fred P. Graham)

Washington, Nov. 11—Government sources disclosed today that the Justice Department was confident that it would obtain indictments by the end of this month against the finance committees of both major Presidential campaigns for violations of the law on reporting campaign funds.

The indictments would mark the first time that Presidential candidates' campaign organizations have been prosecuted for alleged violations of campaign laws, and would present the first test of the new reporting statute that went into effect on April 7.

According to the reports, the committee will be charged with "non-willful" reporting violations, which are misdemeanors punishable by one year in prison or \$1,000 fines or both. But, since only the committees and not the individual members will be charged, the fines alone will apply.

The decision to indict the two committees was reached before the election last Tuesday. Evidence has reportedly already been presented to a Federal grand jury here, and indictments could have been issued before Election Day, according to reports.

However, action was delayed to keep the litigation from becoming an issue in the Presidential campaign, according to the sources.

It is not known whether that decision was made by Attorney General Richard G. Kleindienst or on a lower staff level, but it is reported that the career lawyers who were handling the case favored the delay.

#### TO NEUTRALIZE EFFECT

They were said to have been stung by what they felt were unwarranted and politically inspired charges that highly placed Republicans should have been indicted in the Watergate bugging incident. By delaying the campaign fund indictments until after the election and by simultaneously moving against both parties, they reportedly hoped to neutralize partly the politically charged atmosphere surrounding the cases.

However, some criticism may be generated if, as reported here, there are no major prosecutions arising out of the reported campaign of "political sabotage" allegedly conducted against the Democrats.

Government lawyers have made no secret of their belief that no Federal law was violated by most of the types of political "dirty tricks" reported in recent weeks, such as infiltrating the opposing campaign organization, disrupting a candidate's schedule and spreading discord among the opposition party.

There is, however, a law that makes it a misdemeanor to distribute unsigned or falsely signed campaign literature; and an indictment is expected to result from the distribution of a bogus leaflet in the Florida Democratic primary.

#### DENIAL BY MUSKIE GROUP

The leaflet, the origin of which has not been established, was printed on the letterhead of the "Citizens for Muskie" organization. It accused Senator Hubert H. Humphrey of Minnesota and Henry N. Jackson of Washington of sexual misconduct. The Muskie group has denied knowing anything about the leaflet.

The exact nature of the charges against the two Presidential committees is not known, but both were cited for "apparent violations" of the new Federal Election Campaign Act by the General Accounting Office, which handles the financial reports.

On Aug. 26, the G.A.O. charged that the Finance Committee to Re-elect the President failed to report the sources of and expenditures involving about \$350,000. On Oct. 6, the agency reported that various fund-raising committees for the Democratic Presidential campaign had filed inadequate and erroneous reports.

Since each unreported or improperly reported contribution and expenditure would technically be a violation, the \$1,000 fines could be multiplied many times. Nevertheless, the total penalties would probably be small in comparison with the funds raised. The Nixon campaign raised more than \$40-million and the McGovern committees about \$28-million.

#### NOT EASILY ENFORCED

One reason for the bitterness among some Justice department lawyers over the criticism about their enforcement of the campaign laws is that they consider the laws poorly drawn and almost impossible to enforce.

Justice Department lawyers were never able to obtain a valid conviction under the Corrupt Practices Act of 1925, the predecessor to the new reporting law. Because juries are reluctant to send contributors or campaign officials to jail for activities during the hurly-burly of a political campaign, the Government's lawyers would prefer to have Congress replace the criminal penalties with heavy civil financial penalties for failure to report.

The first public hint of the Justice Department's plans came on Tuesday night when Attorney General Kleindienst was asked during a television interview on the Columbia Broadcasting system if the Justice Department would take action on the G.A.O. complaints against both campaign organizations.

He replied, "We are going to apply a uniform standard with respect to them all," adding that "if that means the Committee to Re-elect the President, McGovern Committee, the Republicans and Democrats, we'll do that."

[From the Washington Star, Jan. 26, 1973]

**NIXON CAMPAIGN UNIT FINED FOR EIGHT VIOLATIONS**

President Nixon's campaign finance committee was convicted today of violating the election money disclosure law by its use of secret cash payments in the Watergate affair.

A federal judge levied a maximum \$8,000 fine against the Finance Committee to Re-elect the President after it pleaded no contest to an eight-count misdemeanor charge.

The conviction was the first ever under the new disclosure law passed last year.

The secret payments, mostly in \$100 bills, went to former campaign aide G. Gordon Liddy, one of two defendants still on trial in the Watergate case.

**TRACED TO COMMITTEE**

The prosecution has said that serial numbers on some of the \$100 bills found on four persons who pleaded guilty after their arrest inside the Democratic National Committee in the Watergate have been traced to Finance Committee funds.

U.S. District Judge George L. Hart Jr., in accepting the no-contest plea, said he considered it tantamount to a guilty plea and immediately handed down the conviction and the fine.

The eight-count charge involved failure to make public reports and failure to obtain receipts on three payments to Liddy totaling \$20,300 and another \$2,000 expenditure by Liddy.

No mention was made of Watergate as the case was whisked through Hart's court this morning, but prosecutors in the separate bugging trial still under way in the same U.S. District Court building have already cited two of the secret payments as being involved in that affair.

On each of two occasions last spring, according to the Watergate prosecution, Nixon committee treasurer Hugh W. Sloan gave \$12,000 in cash to Liddy as part of a campaign espionage assignment.

**KEY WITNESS**

Sloan testified this week that the over-all payments had the approval of then campaign manager John N. Mitchell and finance chairman Maurice H. Stans, but there has been no evidence offered that either man knew exactly how the money was being used.

Mitchell, Liddy and Sloan all left the Nixon campaign within a month after the Watergate arrests. Sloan has been a key prosecution witness in the bugging trial.

Asst. U.S. Atty. Earl J. Silbert said in his opening statement at the Watergate trial that Liddy had been given an assignment to collect campaign intelligence data. Then, in tracing \$114,000 returned in cash from Mexican bank drafts and other campaign contribution, he said, "Mr. Sloan put it in an office safe together with other cash that he had. . . ."

Subsequently, Silbert said, ". . . pursuant to that assignment (campaign intelligence), Mr. Liddy received from Mr. Sloan two \$12,000 disbursements in cash, \$100 bills from that safe which was obviously part of that money."

Although Watergate was not mentioned in the Justice Department charges against the Nixon committee, a government source identified the two \$12,000 payments as being the same in each court case.

**CASH PAYMENT CITED**

The eight-count Justice Department charge said Sloan twice gave \$12,000 to Liddy in cash and provided another \$5,300 in cash for campaign scheduling director Herbert L. Porter to relay to Liddy.

The new law, which took effect last April 7, requires that all expenditures of more than \$100 be listed on public reports.

Attorney Kenneth Parkinson made no comment in entering the no-contest plea for the Nixon finance committee.

However, a campaign spokesman, Devan Shumway, said the Nixon committee felt any violation was a technical oversight in trying to cope with a complex new law. Shumway said the campaign pleaded no contest on advice of attorneys "to put an end to controversy."

[From the Washington Post, Feb. 14, 1973]

**GAO SAYS NIXON FUNDS UNIT VIOLATED SPIRIT, INTENT OF LAW**

(By Morton Mints)

The General Accounting Office said yesterday that President Nixon's campaign organization violated "the spirit" and "clearly the intent" of the election-financing disclosure law in its handling of more than \$1 million contributed just before the November election.

But the GAO recommended against referring any of the apparent violations to the Justice Department because neither the year-old law nor its legislative history nor the GAO's implementing regulations were "sufficiently explicit."

Later in the day, the Finance Committee to Re-elect the President said through spokesman Devan L. Shumway that the GAO had "cleared" it "of any violations of the law." Told of the claim, Phillip S. Hughes of the GAO's Federal Election Office laughed.

All of the contributions in question were made in the 12-day period between Oct. 26, the last day of the final pre-election reporting period, and the Nov. 7 election.

Among the contributors were two dairymen's groups that together gave \$45,000; the Lockheed Employees' Good Citizenship Group of Burbank, Calif., \$15,000; the political committee of the Seafarers' Union, \$100,000; Meshulam Riklis, a previous major backer of Sen. Hubert H. Humphrey's presidential bid, \$150,000; and William Levitt, head of a construction subsidiary of International Telephone & Telegraph Corp., \$102,000.

The elections office, which is planning to tighten the existing rules, also reported apparent violations by the campaign organization of Democratic presidential candidate George McGovern. These involved a relatively small sum in contributions, \$78,000. The GAO recommended against referral to the Attorney General.

The Federal Election Campaign Act requires that any contribution of \$5,000 or more received after the last pre-election report is filed "shall be reported within 48 hours after its receipt."

When does "receipt" occur? When the contribution is received by the political committee, the GAO says. The Nixon finance committee, however, contends that the 48-hour period does not begin to run until the committee passes the gift on to its treasurer.

"We do not agree," the Hughes report said. The GAO also rejected the committee's argument that 48-hour reports are not required if contributions are made in the 48 hours immediately preceding the election.

Hughes noted that finance committee records did not show the date when it received contributions, which were not date-stamped upon arrival. The committee conceded that the posting of contributions "was often delayed by the pace of operations, especially during the final days of the campaign," the GAO said. Committee spokesman Shumway said it "has sought to observe the requirements of the law."

In the Lockheed case, the finance committee received and acknowledged a date-delivered check for \$15,000 on Nov. 3, posted the gift on election eve three days later, but did not report it to the GAO until after the election.

The seafarers' \$100,000, delivered on Nov. 6 and posted the next day, was not reported to the GAO until Jan. 31, the agency said. The contribution was made several weeks after the Justice Department decided not to appeal a dismissed prosecution of the union begun under the old campaign financing law. An \$11,000 lift from a Texas Teamsters' Union committee was delivered just before or after the election, but was not posted until Nov. 12.

Some large gifts were divided up among numerous committees, so that each share would be under the \$5,000 covered by the 48-hour rule, the GAO said.

Meshulam Riklis, head of the Rapid-American Corp. told the committee that his \$150,000 was to be allocated among 50 committees, so that each contribution of \$3,000 would be exempted from gift taxes.

Numerous others whose large pre-election gifts were not disclosed until after the election did the same. The GAO renewed a protest to the Internal Revenue Service against a ruling permitting the practice.

[From the Washington Post, Dec. 1, 1972]

**COMMON CAUSE SUES FOR DISCLOSURE OF EARMARKING CAMPAIGN DONORS**

(By Morton Mintz)

Common Cause charged in a lawsuit yesterday that the clerk of the House of Representatives and the secretary of the Senate unlawfully allowed true sources of campaign contributions to be concealed in reports they received.

The citizens' lobby asked U.S. District Judge Howard F. Corcoran to act quickly to forbid such concealment starting with the election financing report due Jan. 31. These reports should correct earlier disclosures, Common Cause said.

The lawsuit is aimed at contributions that the donors earmark for particular candidates and pass through such conduits as the Democratic and Republican Campaign Committees on Capitol Hill.

Generally, the candidates file reports naming the conduit as the contributor. Thus the reports don't show where the money originated.

As Common Cause sees it, this violates a section of the Federal Election Campaign Act. That section prohibits a contributor from giving through a third party acting as "a false front donor," and also prohibits transfers between political committees which "dissociate the contributor from the recipient."

Common Cause initially filed complaints with the House clerk W. Pat Jennings and Senate Secretary Francis R. Valeo, who administer the election law on Capitol Hill.

Jennings and Valeo were required by the law to investigate the complaints report violations to the Justice Department and prescribe suitable reform regulations, but did not do so, the suit said.

In letters to Common Cause several weeks ago, the Capitol Hill officials denied that the evidence provided by the organization showed the law had been violated but said they were considering new rules to clamp down on earmarking.

As of yesterday evening, Jennings and Valeo had not been served with copy of the suit. They had no immediate comment.

John W. Gardner, chairman of Common Cause, said that earmarking widespread and "undermines the fundamental purpose of the new law."

The National Committee for the Re-election of a Democratic Congress also filed reports showing earmarking of \$415,753 to 133 House and 23 Senate candidates who were pre-selected by contributors.

The money was channeled through the Democratic Congressional and Senatorial Campaign Committees between Sept. 1 and Oct. 26. Some of the money did not actually reach candidates until after Oct. 26, and consequently did not show up in their final pre-election reports.

**COMMENTARY ON ITS IMPLEMENTATION, ENACTMENT, EFFECTIVENESS, AND ATTEMPTS TO AMEND IT**

[From the Los Angeles Times, Oct. 4, 1972]

**CAMPAIGN '72: THE CONTRIBUTORS**

When President Nixon signed the new campaign financing disclosure law last February, he betrayed no doubts about its merits or constitutionality. In fact, he praised the measure in clear, unqualified language.

"By giving the American public full access to the facts of political financing," said the President, "this legislation will guard against campaign abuses and will work to build public confidence in the integrity of the electoral process."

It is shocking, therefore, to find the Nixon high command now posing a serious challenge to the constitutionality of the new law out of purely short-term political considerations.

The basic principle of the Federal Election Campaign Act, as it is officially called, is clear. The idea is that the American people have a right to know where candidates for federal office are getting their campaign funds. With that knowledge, the voters will be in a better position to judge whether a politician may be serving special private interests instead of the broader public interest.



In pursuance of that principle, the new law requires that, beginning last April 7, all contributors of \$100 or more must be made a matter of public record. The act applies to candidates for President, Vice President, the House and Senate, as well as to any political committees acting on their behalf.

The act does not require identification of donations received before April 7. Mr. Nixon's campaign finance committee has, accordingly, declined to make available a breakdown as to the source of some \$10 million in funds that were on hand when the new law took effect.

Common Cause has filed a suit seeking to force public disclosure of these earlier contributions on grounds that, provisions of the new law aside, such disclosure is required by the Federal Corrupt Practices Act of 1925.

President Nixon's campaign lieutenants are, as you would expect, resisting this interpretation of the old law. But it is dismaying to discover that they are basing their case on constitutional arguments which, if successful, will destroy the effectiveness of the new disclosure law as well.

In federal court last Friday, attorneys for the Finance Committee to Re-elect the President argued that political donors have a "fundamental right" to anonymity—that forced disclosure violates their freedom of political association.

Although the argument was offered in response to the Common Cause suit relating to the old law, lawyers for the Nixon campaign agreed that it would apply with equal or greater force to the stricter requirements of the new act.

Actually, it seems clear that disclosure requirements do not violate anybody's freedom of political association. The only thing violated is the right of anonymous donors' to buy influence through campaign contributions.

Another, more complicated challenge to the new disclosure requirements is being posed by the American Civil Liberties Union, which argues that restraints on political advertising will violate the free speech and free press guarantees of the First Amendment. The ACLU also fears the effect of the law will be to force it and other "controversial" groups to make public their membership lists.

If court interpretations prove these worries to be well founded, then the law should be modified accordingly. But the fundamental principle is valid and should be preserved—that when any organization, no matter how worthwhile, seeks to influence the outcome of an election, the public is entitled to know the major sources of the money for those efforts.

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[From the Washington Star, Apr. 23, 1972]

#### MONEY AND POLITICS—DISCLOSURE LAW FLOUNDERS

(By James R. Polk)

Enforcement of the new campaign disclosure law is floundering already at the end of its first working week, with both President Nixon's and George C. Wallace's funds failing to file any money reports.

Wallace, who spent \$7 million in his thirty-party loss in 1968 and may run into seven figures again in the Democratic primaries this year, did not have a single campaign committee register under the new law.

The General Accounting Office, which enforces the presidential part of the new law, was still vague yesterday on what steps it might take to try to get full compliance from Wallace.

"We don't want to go off the deep end," said one GAO elections official. "We want to be flexible in the first few weeks."

#### NO SPENDING REPORTS

Asked if any check was being made on the absence of Nixon reports for the primaries, the GAO said it didn't know.

The Nixon campaign registered all its fund-raising arms in Washington and in at least 34 states, but did not file any spending reports for the first eight primaries covered by the law.

A presidential campaign spokesman said neither the state-level funds nor the national committees were spending any money for the primaries, since Nixon is largely unopposed.

Even though Nixon has money groups set up in such primary states as Ohio, Indiana, Pennsylvania, Massachusetts and Tennessee—all with reports due last

week—the spokesman said, “These committees are not aimed toward the primaries but the general election.”

The GAO rules exempt a committee from filing a pre-election money breakdown if nothing is spent to influence the result of a primary.

#### OTHER HOPEFULS

Efforts to reach Wallace's campaign director in Montgomery, Ala., on his failure to file anything were unsuccessful.

Other presidential hopefuls, Sens. Hubert H. Humphrey, D-Minn.; Henry M. Jackson, D-Wash.; George S. McGovern, D-S. D., and Edmund S. Muskie, D-Maine, all made efforts to meet the new law, but even some of these first reports were dotted with errors.

McGovern's national campaign, for example first listed “none” for its debt, then said it was \$173,865 in the red in another report for Massachusetts and Pennsylvania three days later.

The McGovern committee showed \$25,000 in new loans, but failed to list the required breakdown for the rest of the debt. The McGovern figure is second only to the \$600,000 plus owed by the Humphrey campaign.

Muskie's report failed to list the occupation of donors, even in obvious case such as former Defense Secretary Clark M. Clifford and James H. Rowe, both prominent Washington attorneys.

In the Senate and House, sagging under a burden of more than 1,400 campaign registrations, the disclosure irregularities soared the first week.

#### REPRESENTATIVE MADDEN SENDS LETTER

The campaign treasurer for Rep. Ray J. Madden, D-Ind., who is due to move to House Rules Committee chairman next year, sent only a letter saying Madden's fund had \$113.72 in its checking account. The Madden banker is being told the letter doesn't come close to meeting requirements.

Sen. John G. Tower of Texas, top-ranking Republican on the Senate Banking Committee, failed to register any political committee by the deadline, even though Tower is running in a primary two weeks away.

Neither the Senate nor the House could say how many other committees failed to file, but from all indications, the number was massive.

The new disclosure law requires any political committee spending more than 1,000 to register and file periodic spending reports listing the names of all donors of more than \$100, their addresses and their occupations.

It replaces a riddled 1925 law under which no candidate was ever prosecuted by the Justice Department. The three filing offices for the new reports said they had no plans to send out the initial problems to Justice, either.

[From the Washington Post, May 2, 1972]

#### CHANGES SOUGHT IN LAW ON CAMPAIGN FINANCING

(By Morton Mintz)

Rep. Wayne L. Hays (D-Ohio) said yesterday he is dissatisfied with the three-week-old federal election financing and disclosure law and will move soon to amend it.

He said he plans to “hook” the amendment “onto some bill out of the Senate Rules Committee,” the counterpart to the House Committee on Administration of which he is chairman.

His principal concern is to reduce the number of reports the Federal Election Campaign Act requires of candidates and committees, Hays said.

Rep. John H. Dent (D-Pa.), a member of the Hays committee, wants the law changed too, but for a different reason. He wants tough limits on spending. “You can spend \$200,000 under this law on a primary election,” he protested. “That's not common sense.”

#### THREE SUPERVISORY OFFICERS

And Clerk of the House W. Pat Jennings, one of three officials the law designates to supervise its administration said that a shortage of staff and equipment

ment will make it "impossible" for him to carry out the duties the statute imposes on him.

Jennings said in an interview that the Hays committee has sharply cut his requests for resources to handle a far greater load than that of the other supervisory officers, the Secretary of the Senate and the Comptroller General.

In a related development, Common Cause sued the House Clerk in U.S. District Court here in an effort to roll back from a dollar to a dime the fee for copying reports filed by House candidates and committees contributing to them.

The ten-fold increase was ordered last week by the Hays committee. Yesterday, Hays said he told John W. Gardner, head of the citizens' organization, that if Common Cause should win in court "we'll go back to the old Xerox bit." This would mean, Hays said that anyone wanting a copy would get one for the old price of 10 cents—but would have to "stand in line."

The justification for the "not unreasonable" \$1 price, he said, is that it offsets a part of the estimated \$30,000-a-month cost to the taxpayers of providing sophisticated, computerized equipment, including electronic scanners, that permit instant information retrieval and copying.

Hays said the amendment he has in mind would, to begin with, reduce the workload. In odd-numbered years, for example, the law now requires any committee expecting to spend or receive more than 1,000, any portion of which may go to a candidate for federal office, to file four periodic reports. "Two's enough," Hays said.

#### FAVORS CUTBACK

In election years, in addition to four periodic reports, committees and candidates also must file financing reports 15 and five days before the primary and the general elections. Hays wants the requirement cutback to two periodic reports, one pre-election report to be filed 10 days before the primary or election, and one post-primary and post-election report.

Hays said he told Gardner, "The five-day thing isn't working, and isn't going to work."

Clerk Jennings, who expects to get about 5,000 reports in each of the two pre-election filings before the balloting in November, made studies of the workload that led him, in a letter to Hays on Feb. 21 to request 38 additional staff members at an annual cost of \$399,030.

Jennings noted that he will receive reports covering 437 congressional races every two years, while the Comptroller General given \$1.6 million, will receive reports covering the President and Vice President every four years.

A subcommittee of the Hays unit headed by Rep. Watkins M. Abbott (D-Va.) approved \$156,984—less than half the sum requested—for 12 new positions, without foreclosing the possibility of increases later. The full committee agreed.

[From the Washington Star, May 26, 1972]

#### CAMPAIGN FUND FLAP—DISCLOSURE LAW BACKED

(By James R. Polk)

In the face of a mounting attack in Congress on the new campaign disclosure act, the watchdog agency for presidential election spending has emphasized its view that the law should not be weakened now.

Phillip S. Hughes, director of the Office of Federal Elections of the General Accounting Office, told a news conference yesterday the public disclosure law deserves at least a year's trial before any changes. Many congressmen have become uncomfortable over requirements to make public all large campaign contributions.

Rep. Wayne Hays, D-Ohio, chairman of the House Administration Committee, said Wednesday he would try to change the law. Hays' main proposal would revise the filing dates and give the public only one spending report in the last two months before the November election instead of the three accountings now required.

"This is a very sophisticated form of gutting the act," said a spokesman for Common Cause, a citizens' lobby trying to monitor congressional campaigning.

#### "LESSEN EFFECTIVENESS"

Hughes, whose branch of the GAO handles only the White House race, said the law should be left untouched at least until November.

He said one of Hays' specific proposals—to scratch the requirement to list occupations of all large campaign donors—"would lessen the effectiveness of the law."

Hughes had called the news conference to spell out the GAO's steps to enforce the disclosure requirements for presidential campaigns. Among the actions taken so far:

The GAO is investigating a deficit listed in the day-to-day operations of the campaign committee for Sen. Hubert H. Humphrey, D-Minn. The Humphrey committee says it actually has spent \$224,000 more than it has received, Hughes said. Hughes questioned whether that is possible, and stressed that all income and loans must be listed. He said a letter of explanation from campaign treasurer Paul R. Thatcher was unsatisfactory, and the inquiry is continuing.

The GAO has warned 22 political committees with names such as "Industries Civic Trust" and "Special Projects Group" for failing to list business firms or unions with which they may be affiliated. Among the companies involved are Union Oil, two Los Angeles banks, and four railroads, Illinois Central, Seaboard Coast Line, Burlington Northern, and Chicago & North Western.

The GAO has noted spending involving 27 campaign committees, most of them on the state or local level, which have failed to file reports. Thirteen of those are allied with Sen. George S. McGovern, D-S.D. All have been sent warnings.

The GAO has warned both McGovern and Alabama Gov. George C. Wallace about their failure to itemize debts owed. Humphrey's campaign has been notified about failing to list addresses for several \$1,000 donors.

Hughes said The New York Times, Washington Post, Los Angeles Times and the Wall Street Journal have failed to include in political advertising the legal announcement that a public report on campaign money has to be filed in Washington.

So far no violation has been sent to the Justice Department for action, Hughes said. The Senate and House, which oversee their own races, have not filed any complaints either.

"We're trying to pick off violations as they come in," Hughes said. "It's simply a process of education."

The GAO released a study of all campaign spending by national and state committees for major candidates since the law went into effect April 7.

McGovern led the list as \$2.3 million. Humphrey was shown at \$1.4 million, although this covered only one committee. Wallace's campaign has spent \$650,000.

[From the Washington Star, May 15, 1972]

#### SUIT ATTACKS POLITICAL FUNDS

(By James R. Polk)

A legal drive to ban campaign contributions allegedly sponsored by government contractors was launched in federal court here today.

Common Cause, the citizens' reform lobby, filed the test case against TRW Inc., a major aerospace firm with headquarters in Cleveland, Ohio.

The TRW Good Government Fund, financed by contributions from executives and other employees, passed out more than \$150,000 in the 1970 elections.

The lawsuit charged the donations are illegal under a section of the new campaign reform law which forbids any government contractor to solicit political funds or "directly or indirectly make any contribution of money . . . to any political party, committee or candidate for public office . . ."

If Common Cause wins the test, it could choke off hundreds of thousands of dollars from not only defense firms but all other companies doing business with the government.

The law allows corporations to set up separate political funds based on executives' contributions, but Section 611 bars the indirect campaign help by anyone holding a federal contract.

The threat of such a legal challenge has caused many companies to hesitate in registering their political funds under the new law. "This has a lot of programs on ice, just kind of in limbo," said an industry spokesman.

TRW, Hughes Aircraft, Northrop, and Olin Corp. are the only major defense contractors to register so far.

Other political funds are known to have operated in the past at such defense firms as Ling-Temco-Vought, McDonnell Douglas, General Electric, Union Carbide and several others.

The Justice Department has been wrestling for weeks with the question of whether political committees set up inside such firms would be legal, but still had not reached a decision when the case was taken to court today.

Common Cause charged, "At stake is the integrity of our political process which is being corrupted by the millions of dollars in campaign contributions made by government contractors."

TRW, which produced the lunar descent engine for the Apollo missions to the moon, holds more than \$235 million in Pentagon and space contracts.

TRW collects campaign contributions through a voluntary checkoff system among its employees in plants throughout the nation. Earmarked donations are sent directly to the candidates designated by the various workers, while officials of the fund control the distribution of the rest of the money.

[From the Washington Star, Aug. 9, 1972]

#### FIRM HALTS POLITICAL FUND, COMMON CAUSE DROPS SUIT

TRW Inc., a Cleveland-based aerospace firm, has suspended a fund for employees' political contributions because of a suit brought by the "citizens' lobby" Common Cause.

In turn, Common Cause agreed to drop the suit, in which it had argued that the fund was illegal under a 1971 Federal Election Campaign Act provision barring political contributions by government contractors.

The corporation holds more than \$235 million in government contracts.

A spokesman for TRW said the firm had returned all \$17,500 from the fund to employees and would suspend the program until "Congress acts to clarify certain ambiguities in the . . . act."

Rep. Samuel L. Devine, R-Ohio, has introduced a bill to exempt corporate and union contractors from the prohibition in question. The bill is now in the House Administration Committee, on which Devine is the ranking minority member.

Common Cause filed its lawsuit in U.S. District Court here May 15 and argued that other firms were using similar funds illegally.

"At stake," said the lobby's lawyers, "is the integrity of our political process, which is being corrupted by the millions of dollars in campaign contributions made by government contractors."

The TRW fund was eight years old and had about 650 contributors, most of them in management jobs, according to Stephen Bowen, public relations director for the corporation.

"We regret suspending our fund," said James E. Dunlap, vice president of TRW for employee relations, "because this was the type of activity encompassing widespread citizen participation in the political process that the Federal Election Campaign Act intended to encourage."

The fund is managed by three TRW management employees, including the vice presidents of government relations and community affairs, who designated what candidates would get money.

A number of recipients have been California candidates. TRW has a plant in Los Angeles, and Bowen said that as a matter of practice, money from the fund has gone to where the corporation does business.

In 1970, the fund raised about \$75,000 for various candidates, he said.

The agreement between TRW and Common Cause did not affect another fund in which about 3,000 of the corporation's 65,000 domestic employees can designate which candidates they want to receive money deducted from their paychecks.

"We favor any effort to broaden the base of financing of election such as TRW's checkoff plan so long as the distribution of contributions is made by the contributing employee free from influence by corporate officials," said John Gardner, chairman of Common Cause.

"There was never any coercion," said Bowen. "Some people would like to think that all the money went to Republicans, but nothing is further from the truth. Over the eight-year-plus history, the money has been divided almost evenly between Republicans and Democrats."

[From the Washington Post, Oct. 3, 1972]

**CORPORATIONS, UNIONS EXEMPTED—HOUSE EASES POLITICAL GIFT BAN**

(By Richard L. Lyons)

The House approved, 249 to 124, yesterday a bill exempting corporations and labor unions from a ban on political contributions by government contractors.

Rep. Wayne Hays (D-Ohio), who managed the bill, called it "simply a clarifying amendment" needed to assure that all corporations and unions are treated alike under the 1971 campaign spending reform law.

But the citizens lobby Common Cause said enactment of the bill would "destroy the existing prohibition against government contractors purchasing influence and access through campaign contributions."

Hays said the House Administration Committee which he heads approved the bill unanimously because of some contradiction between two sections of the law.

One section forbids contributions from corporate or union funds but permits political use of funds contributed voluntarily by union members or stockholders.

The other forbids any contributions by firms and unions having government contracts.

The bill approved yesterday would exempt corporations and unions from this second provision and make them all governed by the first provision, whether they hold government contracts or not. Unions could have contracts for manpower training programs.

Rep. Morris K. Udall (D-Ariz.), a leader in the fight for a strong campaign spending reporting law, said it seemed fair to treat all alike.

Rep. Phillip Burton (D-Calif.), head of the reform-minded Democratic Study Group of House liberals, also supports the bill.

Rep. Henry Gonzalez (D-Tex.) said he thought there was a difference between government contractors and other corporations, and suggested they should be treated differently under the law. But little support was voiced by others for the Common Cause view.

Common Cause complained also that the bill had been approved without hearings. Minority Leader Gerald R. Ford (R-Mich.) had told Common Cause in a letter last June that he felt hearings should be held on any bill to change the campaign spending law. Because of that statement, Ford voted against the bill yesterday although he said he favored its passage.

The bill was sent to the Senate by a big majority, but the vote of 249 to 124 was only one more than the two-thirds needed to pass it under the procedures by which it was considered.

[From the Washington Post, Oct. 2, 1972]

**AND TO SABOTAGE THE CAMPAIGN SPENDING LAW**

"We should prohibit those who have government contracts, contractors who deal with the government, contractors who make great sums out of government contracts, from making contributions to political parties for any purpose whatsoever. . . The greatest source of corruption in American politics today is the use of money obtained from those who make profit out of contracts with the government."

Those are not the words of your ordinary liberal reformer, holding forth against the unholy alliance of big business and big government. Those are the words, on the contrary, of the late Senator Harry F. Byrd, spoken over 40 years ago, as Congress was making its first real effort to exercise some control over money in politics by restricting campaign contributions by government contractors. These rules were later refined and expanded in the Federal Election Campaign Act of 1971, enacted in recognition, by most responsible people, that Harry Byrd had been right—that our political processes were being corrupted and debased by the ease with which the big spenders, and especially those doing business with the government, could buy their way to political influence. Today's headlines tell us that regulations are still far too lax; that we still have a long way to go if the political processes are to be freed of powerful, private, unfettered financial manipulation by men of means.

And yet, there on today's Suspension Calendar in the House, alongside the aforementioned bill to censor the news, is another striking example of legislation by stealth—a measure (H.R. 15276) which would undo an important part of the Election Campaign Act and make a mockery of that 40-year-old warning from Harry Byrd. Specifically, this bill would exclude corporations and perhaps also labor organizations from the reach of existing regulations governing political contributions by government contractors. Like the measure having to do with travel to Hanoi, it was sneaked out of a closed committee session, without benefit of hearings; nobody was supposed to know about it until it was too late—except, of course, the business and labor interests who covertly promoted it after a Common Cause lawsuit against an aerospace contractor had proved last August that the provisions of the Election Campaign Act could actually be made to work. Under a stipulated agreement with Common Cause, the contractor, TRW, agreed to dissolve its political fund, return unspent contributions, and stop soliciting political contributions from its employees.

HR 15276 would make this sort of thing permissible again, and right at a time when we are confronted with one report after another of campaign contributions "laundered" in Mexican banks and other gross abuses of the rules governing the handling of campaign finances. This, in short, in an odd time to open still another loophole to more "corruption in American politics" and the House should waste no time in knocking the effort on the head.

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[From the New York Times, Oct. 3, 1972]

#### RAID ON ELECTION REFORM

President Lyndon B. Johnson once said the Federal statutes regulating the collection and expenditure of political money were "more loophole than law." The new Federal Election Campaign Act which went into effect only five months ago was a major corrective effort.

But already the unions and corporations which were comfortable with the old status quo are busily at work subverting the new law. With one vote to spare, the House of Representatives yesterday scissored a huge new loophole for the convenience of these special interests.

The House-passed measure exempts unions and corporations from Section 611, which makes it a crime for anyone holding a government contract to provide a campaign contribution "directly or indirectly" to any party or candidate. Many unions are technically government contractors because they receive grants to administer manpower training and other Federal programs.

Section 611 has actually been in effect since 1940 and was only carried over in the new law, but like many other provisions of Federal electoral law had been genially ignored. It ceased to be a dead letter earlier this year when Common Cause won a court suit against an aero-space contractor on the ground that the firm's management of a political fund collected from its employees constituted an "indirect" contribution—which is putting it mildly.

Despite a public pledge by Speaker Albert and Representative Ford, the minority leader, that no amendment to the new election law would be permitted without prior public hearings, this proposed change was slipped on the consent calendar a few days ago.

The bill won the two-thirds majority required under the consent procedure because many Republicans want to keep corporate money flowing and many Democrats want to keep union money flowing. But it is long past time for both parties to move toward reliance upon individual contributors and away from huge funds assembled under either corporate or union auspices. The public looks to the Senate to defend the integrity of election reform and not yield to this outrageous, sly and cynical raid on the law by the loophole seekers.

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[From the New York Times, Oct. 7, 1972]

#### ... AND BUCKSEEKING

Congressmen of both parties are anxious to get campaign contributions from anybody who will give them, and if the law stands in the way, so much the worse for the law. That is the implicit lesson of the extraordinary moves that

have taken place in both the House and the Senate this past week to weaker existing barriers against campaign contributions by corporations and unions.

Existing law makes it illegal for corporations to contribute to political campaigns, and for unions to contribute their members' dues for political purposes. The customary way to get around that ban has been to form political action committees or the like to channel "voluntary" contributions of corporation executives or union members to candidates supported by the corporations or unions. But that, too, has been illegal since 1940 for corporations and unions that have Government contracts. The relevant ban was retained in the Federal Election Campaign Act of 1971, though no one paid any attention to the prohibition until that valuable private organization Common Cause began to work on it earlier this year.

The threat thus raised by Common Cause to cut off an important source of campaign contributions for both Republicans and Democrats has now been met by bipartisan determination to repeal the ban. First the House, working under a suspension of the rules and in semi-secrecy, passed a repeal resolution. Now a bare quorum of the Senate Rules Committee has voted to exempt corporations and unions from the prohibition. All that remains is for the bill to be whisked through the Senate as it was through the House.

Apparently when it comes to getting money, Congressional Democrats and Republicans stand together in defiance of public opinion and the canons of sound public policy.

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[From the Wall Street Journal, Oct. 5, 1972]

#### SHREDDING THE CAMPAIGN LAW

Attempts to set up a workable and uniform set of rules for conducting federal election campaigns have not been among the brighter successes of American legislative history.

It has been difficult for Congress and the President to agree to a set of rules. It has been even more difficult to get everyone to live by the spirit of the rules, and sometimes by their specifics, after they have been made.

So perhaps it should not be surprising that the ambitious new Federal Election Campaign Act, which went into effect only last April, already is under attack. Moreover, the attack is coming from such diverse quarters as Nixon campaign treasurer Maurice Stans, the American Civil Liberties Union and lawyers for The New York Times.

What seems to be troubling the attackers most about the new law is its effort to bring campaign financing out into the open. The law requires disclosure of names of contributors and it attempts to thwart the old practice of setting up diverse committees to collect anonymous contributions, which is how the disclosure rules of the former law were widely circumvented.

The most startling attack came from lawyers representing Mr. Stans, who argued in federal court last week that public disclosure of the names of campaign contributors violates the donors' rights to free speech and association under the First Amendment of the federal Constitution.

This line was startling because Mr. Nixon had supported the campaign law last winter and signed it into law with some hopeful remarks about restoring public faith in the electoral process. The fact that Mr. Stans' lawyers see this same laudable bill as a violation of constitutional rights perhaps represents an honest difference of opinion. But it also suggests, as did the Watergate affair and several other incidents, that the President's campaign team is not very well glued together.

The constitutional argument has been floating around for some time and has been supported by some noteworthy lawyers. One main point of the argument holds that disclosure of the name of a contributor might in certain circumstances subject him to over-whelming pressures from his employer or someone with similar power and influence. He might thus be deprived of his rights to freely associate himself with a legitimate cause.

The Stans case involves a suit brought by Common Cause, a "citizens" lobby group, attempting to force Mr. Stans to disclose the source of contributions. Mr. Stans alleges were made before the April law took effect. The case, if it goes far enough, may provide a test of the constitutional argument.



The ACLU case, which is supported by Times lawyers, also asserts First Amendment free association rights but in a different context. It seeks to knock down the new law's filing and disclosure requirements for committees that place advertisements that are alleged to be "issue" rather than "candidate" oriented, arguing that members of such groups sometimes need secrecy protection.

Judging from the amount and level of support there has been in this campaign for a return to the old ways of protecting the anonymity of campaign contributors, there would seem to be a good chance that the attacks will have some effect. Even if the court actions fail to shake the law, there will be new moves in Congress to amend it. And it is conceivable that administrative interpretations will weaken the law even if it survives the courts and Congress.

All of which would be too bad. It hardly seems unreasonable for a law to ask that those persons who are seeking public office disclose whose backing they are receiving. They are, after all, asking for the votes and the confidence of the public and the public would seem to have a right to know who feels strongly enough about the candidacy to give substantial sums of money to it. That right would hardly seem to be altered by the fact, which some lawyers cite, that money beyond a certain minimal amount isn't always crucial to getting a candidate elected.

A stated willingness of candidates to support and live by a set of rules requiring this kind of candor might have another benefit. It might take some of the charges and counter charges involving personal integrity out of campaigns so that the voters could hear more of what, if anything, the candidates have to say about the real issues. That would be a decided improvement over the way the current campaigns have been conducted so far.

[From the Christian Science Monitor, Oct. 11, 1972]

#### SELLING OUT THE PUBLIC

Any time is the wrong time for Congress to start watering down its own political campaign-financing law. But at this particular time, when the country is witnessing in dismay the all-to-reluctant unraveling of what appears to be a major scandal involving the misuse of campaign funds, such congressional tinkers seem downright cynical.

While the current campaign fund scandal-in-the-making happens to revolve around the Republican Party, neither party is pure as regards last week's actions in Congress to legalize political contributions for corporations from labor unions which are under contract to the government. Both houses and both parties were in on the action. And for the same reason: an unseemly hunger for campaign contributions, regardless from what source, and regardless of how wide the door is opened for influence-seeking interests.

The Federal Election Campaign Act of 1971 (which continues a ban against such contributions, in effect since 1940 but conveniently observed in the breach) is the target of the legislation in question. The spark behind this anti-reform action is the campaign waged by Common Cause, a private government watchdog group that has been aiming an embarrassing spotlight on this matter in the past several months.

Last week, in a bipartisan effort to run into the legal shadows and escape the glare of public awareness, the House swiftly and without benefit of public hearings passed a repeal resolution. That action was followed in the Senate Rules Committee by a vote to exempt corporations and unions from the prohibition. Senate action, most probably under suspension of the rules as occurred in the House, is all that is needed to complete this ill-conceived action.

Again, we think Congress is wrong in principle at any time to reopen campaign contribution loopholes. But at this particular time such action undermines the moral base for either party or for the Congress itself to investigate campaign fund abuses, which are daily taking on larger proportions in the press. Who is left to act as the public's policeman, when both political parties are on the selling side?

[From the Wall Street Journal, June 28, 1972]

**NADER ACCUSES IRS OF CREATING LOOPHOLE TO HELP NIXON DRIVE—HE SAYS  
JUNE 21 AGENCY RULING EXEMPTS MANY DONATIONS TO CAMPAIGN FROM GIFT  
TAXES**

WASHINGTON.—Consumer advocate Ralph Nader charged that the Internal Revenue Service opened a loophole to help finance President Nixon's reelection campaign.

Mr. Nader and Public Citizen Inc. asserted that the IRS issued a ruling that "seems tailor-made to immunize from gift-tax liability donations made to numerous 'dummy' committees established in 1971 to receive contributions for the reelection campaign of President Nixon."

The petition, filed with the IRS, contends that the June 21 ruling "opened a mile-wide loophole in the law," which generally specifies that gifts of over \$3,000 to a single recipient make the donor subject to the gift tax.

The IRS had said that where political organizations had "essentially" the same officers and supported candidates, and didn't have substantial independent purposes, they would be treated as one, and all gifts to them by an individual would be aggregated. Thus, gifts by one person of over \$3,000 to a number of such organizations would be subject to the gift tax.

The petition asserted, however, that the ruling cleared the way for exemption of numerous donations to a variety of committees by saying that "The officers or supported candidates won't be deemed to be essentially the same if at least one-third of the officers or candidates are different in each of the committees."

The IRS didn't have any immediate comment on the petition, which also asks for the "reasoning behind this ruling and who requested it," and that the IRS investigate whether large political contributors are filing gift-tax returns.

[From the Washington Post, Sept. 7, 1972]

**SEVEN HUNDRED VIOLATIONS OF ELECTION LAW REPORTED**

(By Morton Mintz)

The Justice Department said yesterday that "more than 700" apparent violations of the Federal Elections Campaign Act have been referred to it for possible civil or criminal action.

But an informed source told The Washington Post that the figure—termed "preliminary" by the department—was "extremely conservative," so much so that the true number could be "double or triple" 700.

In reply to a query, the department said one lawyer and his secretary are assigned to handle the cases. The department says unofficially it is so overburdened with other responsibilities that it has no more attorneys to spare.

The bulk of the apparent violations, such as failures of candidates to file financial reports, were referred by Clerk of the House W. Pat Jennings. He declined to discuss the referrals, saying only that he is enforcing the law as it applies to House candidates.

A spokesman for Secretary of the Senate Francis R. Valeo told a reporter that seven Senate candidates who did not file financial disclosures, even after two warnings were sent to them by certified mail, had been referred to the department. An eighth referral was made of a candidate who deliberately chose not to comply with the law, which took effect April 7.

The Senate spokesman said that none of the apparent violators is an incumbent, and that all of them had lost in one or another of 88 state primaries. He said that "dozens" more candidates had filed late reports after being warned of possible prosecution.

The General Accounting Office has referred a handful of cases to the department, each involving a possible violation by a committee or a candidate involved in the presidential race, and each publicized with detailed GAO press releases. One of these referrals resulted in the only prosecution to date, a civil case against a committee that placed a newspaper ad suggesting impeachment of the President.

The Justice Department spokesman said that after an early effort to secure voluntary if belated compliance, 28 out of 30 defeated congressional aspirants filed statements following warnings by the department.

(From the Washington Post, Nov. 4, 1972)

## FINANCING ELECTIONS

(By Morton Mintz)

The Federal Election Campaign Act—the first major overhaul of election financing since 1925—will be only seven months old on election day, Nov. 7, but already enough evidence on its workings is at hand to permit a tentative evaluation in advance of an expected review by Congress.

A prime purpose of the law was disclosure: to make the facts on who gives what to whom available to the public—available in state capitals as well as in Washington. That purpose is being fulfilled; by and large the facts are available. That is not to say there are no problems. To cite a couple:

The quantity of paper filed—with the General Accounting Office for the presidential race, and with the clerk of the House and the secretary of the Senate—is too vast to be dealt with comprehensively, certainly in time to be fully useful before an election. At the GAO, the paper blizzard will remain almost unmanageable until such time as the Internal Revenue Service or Congress forbids the creation of hundreds of separate committees simply to enable large contributors to avoid gift taxes.

Television may be the medium on which Americans depend for most of their news, but TV networks and stations have been doing little if any serious research of their own, at least at the GAO. Campaign financing is not, of course, a "visual" story.

Disclosure under the new law is occurring in an era of enormous interdependence between government and numerous segments of society with high stakes in what government does or does not do about, to take a few newly sensitive areas, the environment, or price and wage controls, or trade with China and the Soviet Union.

As never before, the public is learning of the startling dimensions and the pervasiveness of giving (or investing) by special interests—business and labor, milk producers, physicians opposed to far-reaching health insurance, trade associations seeking exemptions from the minimum-wage laws, companies that are being (or possibly should be) sued under the antitrust laws, and on and on. The public is also seeing, at the same time, the emergence of a new group of super-contributors.

Did the heir to one of America's great industrial and banking fortunes contribute almost \$1 million out of high principle? Selfish motive? Some mixture of the two? What were the motives of the hamburger tycoon who gave a quarter-million dollars? Disclosure doesn't really tell us; it encourages speculation, some of it doubtless unfair. The alternative, suppression, is no alternative.

Especially because the public education provided by the new law is taking effect simultaneously with continuing revelations about the secret and "laundered" funds that helped to finance the Watergate "bugging," an atmosphere of cynicism about the political process likely is intensifying—a result surely unintended by Congress.

The Justice Department is generating further cynicism. Just as under the 1925 law, it is showing a pronounced lack of zeal for prosecuting violations referred to it abundantly by the GAO and Capitol Hill, including the case of a Wall Street figure. His gifts to a Democratic presidential candidate created a "possible violation" after which he gave generously to the GOP presidential candidate.

The law imposes limits on spending in communications media (while leaving a significant loophole for TV production costs) and on contributions by a candidate and his immediate family. Otherwise, the sky is the limit.

Certain congressmen want to put a ceiling on contributions. Starting at least as far back as 1907, with President Theodore Roosevelt, a long line of political figures has urged federal election subsidies. President Johnson said that public funds should finance "the total expense"; he wanted "to prohibit the use or acceptance of money from private sources." A revival of interest in such a plan is now possible.

Some lawyers say that any limit on contributions, including the current one, raises First Amendment questions. But others say that to define free speech so as to equate freedom to spend with freedom to speak is unreasonable. In any event those who may care to advocate federal subsidies face a further challenge: how to offset the usual advantage of an incumbent over a challenger while giving each equal sums.

[From the Washington Star, Nov. 12, 1972]

## CAPITOL HILL "TIME BOMB"—CAMPAIGN FUND LAW FACES CRISIS

(By James Polk)

Between its friends and its enemies, the new campaign money disclosure law may be tugged apart on Capitol Hill next year.

Reform groups want to replace the new law with tax-paid financing of federal elections. Congress, with its instinct for self-preservation aroused by full disclosure, is leaning instead toward loosening the law.

"What we're dealing with here is a ticking time bomb, and the issue is going to get more intense," said a reform lobbyist.

At the end of its first campaign, the disclosure law has opened up the undercover world of political money as never before. Among the findings, plus and minus.

The wealthy faithful of the party, not the favor seekers, played the greatest role in bankrolling President Nixon's landslide victory. On the record, the special-interest money—from trucking, from milk, from General Motors—was relatively rare. But the sources of \$9 million raised in the last month before the law took effect is still being kept secret.

Senate and House races lured more of the interest money. In Michigan, for example, Chrysler delivered checks from 247 personnel to GOP Sen. Robert P. Griffin the same day his losing opponent, who remains the state attorney general, got money from more than 100 lawyers and law firms.

The new law helped drive a wedge into the Watergate secrecy. Spending reports yielded the first link to the Nixon campaign payroll a day after the arrests in the Democratic headquarters breakin. And the General Accounting Office made an independent trace of \$114,000 in secret GOP funds found in one suspect's bank records.

The Justice Department, from its record so far, is even less eager to enforce the new law than it was the often-evaded old one. But a Justice prosecutor insists the GAO's referrals of Watergate violations "are still under investigation."

Common Cause, the reform lobby, did the most to make the law work. It won court agreement to force the Nixon campaign to reveal \$5 million in pre-March donations. It got another court settlement ending an executive political fund for a defense contractor, and it ran a huge monitoring operation to identify Senate and House donors and send detailed reports to hometown newspapers.

Stirrings already are surfacing in Congress to chip away at the law, cutting down on the number of public filings, tossing out the requirement to list donor occupations, making other changes. Common cause has a different answer: public financing of elections.

"Disclosure doesn't do—it can't do—what people intended disclosure to do—cleanse the system and tone down the clear-cut use of money to buy political power," said Fred Wertheimer, lobbyist and lawyer for Common Cause.

With a \$1 taxpayer checkoff already written into law for 1973 for future presidential races, Common Cause wants to pay the costs of Senate and House elections from the federal Treasury, also.

The bill could be high. The most conservative estimate for this year's presidential and congressional races starts at \$140 million.

The Nixon campaign led the spending at \$40 million or more, a record for the second straight election. Democratic loser George S. McGovern spent about \$30 million, including his primary races.

The common thread for the Nixon riches was self-made wealth: a hamburger franchise king, a mutual fund manager, an insurance tycoon, a computer executive, a man who built a better furnace for steel.

Nine persons each gave Nixon a quarter million dollars or more. From his 27 top donors, all with six-digit gifts, came nearly \$6 million of his war chest.

There was little or no hint of conflicts of interest at the higher levels of Nixon collections. IBM's Watson brothers were both big givers—with Arthur K. Watson, ambassador to France, contributing \$300,000—even though the Justice Department is prosecuting IBM in a landmark antitrust case.

The trucking industry did show up in the late stages of the campaign with a \$190,000 package of Nixon money. And another trucker in Iowa gave \$30,000 while trying to win an Interstate Commerce Commission appeal on a merger he seeks.

But most of the special interest funds that surfaced for Nixon were small, measured against the myths of power and money in Washington.

General Motors officials bought \$30,000 in tickets to a Nixon fund-raising dinner in Detroit, Kaiser Corp. (metals) and Bechtel Corp. (heavy construction) were each near that level at a San Francisco affair. A shipping line with federal subsidies put \$30,000 into "Democrats for Nixon."

None of the known cases pending in the Justice Department involves any conflicts of interest.

Although Justice has handled up to 1,600 complaints most of them are minor or technical matters such as late filings.

In the Watergate affair, the GAO charged apparent violations by the Nixon campaign in its handling and bookkeeping on a \$350,000 secret fund in its campaign treasurer's safe, \$39,000 in Mexican bank drafts, and another \$25,000 donation that went to a Watergate suspect at one stage. A Justice official handling the case will only say, "Some aspects of this are still under investigation."

[From the Washington Post, Nov. 5, 1972]

#### CAMPAIGN DONATION LAW'S REFORMS FACE ATTACK

(By Don McLeod)

The new law regulating campaign finances, fresh from its first election-year test, faces sure-fire attempts to roll back its key reform provisions early in the next Congress.

A principal target is expected to be the ban on indirect contributions by government contractors.

The Federal Elections Campaign Act, which limits the amount candidates for Congress and President can spend on advertising and requires full reporting of the sources and uses of campaign funds, was passed by Congress last January.

But during the closing days of Congress, efforts were made to salvage affiliated political funds, a ploy used by big corporations and labor unions to contribute to political campaigns.

These gifts are virtually outlawed under the out-of-court settlement last summer of a lawsuit by Common Cause against one of the funds. Attempts at repealing the section on which the suit was based failed only after Sen. William Proxmire, (D-Wis.) threatened a filibuster.

But both sides expressed the certainty that the battle would be resumed in the new year.

Other efforts are expected to try to reduce the number of reports candidates are required to file on their gifts, to eliminate reports in off-years and to strike the requirement that reports include the occupation and business address of each donor.

The new rules brought some howls during their first testing this fall from those who thought they were too restrictive and liable to shut off the sources of campaign financing.

The affiliated political funds brought the loudest complaints. These funds are built from collections taken by corporations and unions from their employees or members and given out by the company or union to candidates who can help the donor.

Unions and corporations are not allowed to give their own money to political candidates, but by using money collected from members or employees, they can achieve the same effect. It's not company money but the recipient knows full well he gets it at the company's grace.

The catch is that the law apparently bans even this kind of giving from corporations and unions which have government contracts.

This knocks out most big corporations, as well as a number of unions having manpower training contracts.

The practice had gone unchallenged until Common Cause, a citizens' group, sued TRW Inc., a major government contractor which had what was considered the prototype of affiliated political funds. TRW dissolved its fund rather than defend it in court, and some other corporations followed.

But other resisted, especially after Rep. Samuel Devine (R-Ohio) introduced a bill to repeal the ban.

The AFL-CIO, which operates a large funding operation of this type, mounted a massive lobbying effort behind the repealer—in unusual harmony with the business community.

The repealer whistled through the House without committee hearings shortly before adjournment, but Proxmire and others stopped it from coming to the Senate floor.

In the House debate, Rep. Morris Udall (D Ariz.) defended the "Active Citizenship Fund" at Hughes Aircraft Co., as "one of the first programs in America."

"They appoint a Democrat and a Republican chairman in their plant and they go through the assembly line getting small contributions from the employees and urging political participation," Udall said.

But an examination of the Hughes fund shows more than small gifts from the assembly line. A report filed May 22 with the clerk of the House shows the names of more than 130 Hughes engineers giving a uniform \$150 each.

The wife of a Hughes employee complained, in a letter to Common Cause, about the "company's request for \$150. No ifs, ands or buts about it. We HAD to give \$150 with no designation possible."

A Hughes engineer wrote that "most of us feel it is a political slush fund." "First we are asked to contribute a specific amount of money," he wrote. "Of course, we are told it is 'voluntary' but there is the subtle suggestion that if you don't contribute your chances for promotion or a salary increase many be jeopardized. They never say this, but we FEEL it."

A report covering the period from April 7 to Oct 18 showed gifts from the Hughes fund to 38 congressional candidates of both parties totaling \$23,195.

Almost all the money given to incumbents went to members of congressional committees, which act on the government contracts going to Hughes or the appropriations bills behind them, including to members of defense related committees dealing with space and aviation.

Another heavy slice went to members of the Interior committee. The Hughes financial empire contains significant land and mining holdings.

Hughes is only one of several affiliated political funds still in operation. Others are run by Texas Instrument Corp., General Telephone and Electronics, General ———— Olin Corp., General Mills, a number of railroads including Union Pacific, and most labor unions.

[From the Washington Post, Dec. 6, 1972]

#### WITNESSES DEBATE CAMPAIGN FUNDS

(By Spencer Rich)

Common Cause chairman John W. Gardner clashed sharply with campaign fund expert Herbert Alexander yesterday on the best way to prevent "big money" from corrupting the national election process.

Testifying before a special congressional hearing on congressional reform, Gardner called for new legislation to wipe out organized special-interest political collection committees. He cited the AFL-CIO's COPE (Committee on Political Education), BankPac (Bankers Political Action Committee) and the hundreds of dummy organizations used by big industries and wealthy men to channel funds covertly to favored candidates.

The former Secretary of Health, Education and Welfare also called for sharp limits on political contributions by individuals—possibly in the vicinity of \$100 to a House candidate, \$500 to a Senate candidate and \$1,000 a presidential candidate, aides said later.

Gardner said abolishing special-interest funding committees and limiting individual contributions would make it impossible for moneyed groups or persons to exert their present enormous influence over candidates. In place of the lost funds, non-wealthy candidates could obtain a reasonable level of funding from the public treasury, Gardner said. Aides said this might include a mailing allowance for campaign literature, a travel allowance, funds for TV and radio ads and rental of office space.

Alexander, director of the Citizens Research Foundation of Princeton Foundation of Princeton, N.J., agreed with Gardner on public financing for candidates who need aid. But he disagreed both on the abolition of COPE and similar groups and on imposing sharp limits on individual giving.

He said the major problems of funding imbalance and of guaranteeing that the nonwealthy can run for office would be solved by public financing, and he said Gardner's other proposals would run counter to the tradition of voluntary citizen's contributions.

Both Gardner and Alexander, as well as Phillip S. Hughes of the General Accounting Office, agreed that authority over compliance with the present campaign funding laws should be concentrated in a single office with power to subpoena records and prosecute violations. At present, it is split among several offices including the GAO, and recommendations for prosecution must be referred to the Attorney General.

Hughes wondered whether any Attorney General could go after the finance chairman of his boss's own political party.

Both Gardner and Warren Weaver Jr., a New York Times reporter, blasted the congressional seniority system. Chairmen elevated solely because of seniority, said Gardner, are the "federal barons" of government, able to do as they please, ignore the leadership, show accountability to no one, and block legislation with impunity, secure in the knowledge they will never be ousted. He said chairmen should be elected by open-ballot roll-call of the party caucuses, so that any chairman always has over his head the threat of eventual removal if he is too obstructive.

Weaver, author of a book on Congress, "Both Your Houses," said, "There is no other legislative body in the free world that uses the seniority system—that includes village boards, state legislatures, and all units of local government.

"In almost every organization in the U.S., public, private, business, garden clubs, one of the principal functions is to identify and then promote people who are capable of leadership. But Congress does not follow this principle," Weaver said.

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[From the Washington Post, Jan. 11, 1973]

#### MIKE MANSFIELD—A DEFECTIVE ELECTIVE PROCESS

*From Majority Leader Mike Mansfield's remarks to the Senate Democratic Caucus Jan. 4:*

Once again, in the last election the flaws in the electoral system were paraded before the nation. In my judgment, both congressional and presidential campaigns are too repetitive, too dull and too hard on candidates and electorate. Most serious, the factor of finance begins to overshadow all other considerations in determining who runs for public office and who does not, in determining who gets adequate exposure and who does not. It is not healthy for free government when vast wealth becomes the principal arbiter of questions of this kind. It is not healthy for the nation, for politics to become a sporting game of the rich.

This Congress must look and look deeply at where the nation's politics are headed. In my judgment, ways must be found to hold campaign expenditures within reasonable limits. Moreover, to insure open access to politics, I can think of no better application of public funds than, as necessary, to use them for the financing of elections so that public office will remain open to all, on an unfettered and impartial basis, for the better service of the nation. With this principle forming the objective, it would be desirable to consider limiting campaigns to three weeks or four weeks, later scheduling of conventions and possibly, replacing the present haphazard, expensive time-consuming state primaries with national primaries. Once again, too, consideration might be given to abolishing the electoral college and to adjustments in the Constitutional provision involving the presidential term of office and, perhaps, that of the Members of the House.

The Federal Election Campaign Contributions Act, which we enacted in the 92nd Congress and which was put into effect this past year, may also need refinement and modification to reduce undue paper-shuffling and other burdens without compromising the principle of full disclosure. There are also some specific matters relating to the past elections which warrant investigatory attention. One is the so-called Watergate Affair which appears to have been nothing less than a callous attempt to subvert that political processes of the nation, in blatant disregard of the law. Another is the circulation by mail of false allegations against our colleagues, Senator Muskie, Senator Jackson and Senator Humphrey, during the Florida primary campaign, with the clear intent, to say the least, of sowing political confusion.

Still another is the disconcerting news that dossiers on congressional candidates have been kept by the FBI for the last 22 years. This practice has reportedly been stopped. It would be well for the appropriate committees to see to it that appointed employees in the agencies of this government are not placed again in

the position of surreptitious meddling in the free operation of the electoral process. The FBI has properly sought to avoid that role in other situations. We must do whatever is necessary to see to it that neither the FBI, the military intelligence agencies or any other appointive office of the government is turned by its temporary occupants into a secret intruder into the free operation of the system of representative government in the United States.

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[From the Washington Post, Jan. 21, 1973]

#### NEW ACT CONFUSES ELECTION SPENDER

(Congressional Quarterly)

The new federal campaign spending law, which went into effect last year, brought in a flood of reports. But, with a final filing yet to come, it appears the public will be as confused as ever about political fund raising and spending.

The Federal Election Campaign Act went into effect last April, the first major change in national election laws in 46 years. Final reports on spending in the 1972 presidential and congressional elections are due Jan. 31. When complete, the reports are expected to fill more than 250,000 pages—enough to cover close to 30 feet of shelf space.

The sheer volume means it will be hard to find out just who spent what on whose campaign. Also, the reports are filed in three different places and as unrelated documents.

Says Herbert E. Alexander, director of the Citizens' Research Foundation of Princeton, N.J.: "What worries me is that we don't know what the reports will show. It may be apples and oranges."

The reports are filed with the General Accounting Office (GAO) for presidential campaigns and with the Clerk of the House and Secretary of the Senate for congressional races. No over-all findings based on the reports are required by law. The custodians are required to publish annual reports showing the total amount of money involved.

One example of what Alexander was referring to can be seen in a GAO listing of former diplomat Angier Biddle Duke, who worked as a fund raiser in Europe for Democratic presidential nominee George McGovern. In five entries for Duke, his name is spelled two different ways, three different addresses are used and four different political committees are listed.

Attempts to change the law are expected before the 1974 elections. John W. Gardner, chairman of the citizens' lobby, Common Cause, has said he expects "an attempt to gut the existing law at the outset of the new Congress . . . possibly without hearings and with little public debate."

Labor and business would like to remove a restriction against political activity by corporations and labor organizations holding government contracts. An attempt to do so late in the 92d Congress failed under threat of a filibuster by Sen. William Proxmire (D-Wis.).

Other attempts to change the law are likely to advocate:

- A central office, independent of Congress, for filing the reports now filed in the House, Senate and GAO.
- Transferring enforcement of the law from the Justice Department—as much a part of the "system" as Congress—to an independent agency.
- Some means of making the volume of reports manageable and individual contributions clearly identifiable.

As controversial as any other point is the ultimate objective of Common Cause and some of its allies, public financing of most election costs. A December statement by the organizations said this would be "a drastic change in the system of financing elections but one we believe is essential to destroy the special interests' power to buy candidates."

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[From the Washington Post, Jan. 23, 1973]

#### POLITICAL FUND LAW CRITICIZED BY STANS

President Nixon's chief campaign fund-raiser Maurice Stans, has said the new law on disclosure of political finances and contributions requires too much paperwork and should be amended.



His remarks met immediate opposition from Russell Hemenway, director of the National Committee for an Effective Congress, who said Stans only wants to keep the names of large contributors out of the public record.

Stans made his comments at a closed meeting of the Republican National Committee. He elaborated briefly in a subsequent interview.

Stans said the law should be amended so candidates for federal office do not have to disclose the names of contributors who give \$3,000 or less.

Under the 1972 law, the names and addresses of all who contribute over \$100 to a House, Senate or presidential campaign must be reported and open to public scrutiny.

Hemenway said, "It took us year to pass this law. The guts of it is the disclosure of names and addresses of large contributors. Anybody that knows anything about politics, including Mr. Stans, knows that \$100 is a large contribution."

"To raise that figure to \$3,000 would be to exclude an awful lot of people who are giving substantially. It would destroy the heart of the bill."

"Mr. Stans' analysis of the way the law works indicates he spent most of his time worrying about how to avoid it," Hemenway added.

[From the Georgetown Law Journal, May 1972]

#### COMMENT—THE FEDERAL ELECTION CAMPAIGN ACT OF 1971: REFORM OF THE POLITICAL PROCESS

The development of new campaign techniques in recent years has brought the long-term problem of financing the American political process to a crisis point. Widespread use of television and the application of modern advertising technology<sup>1</sup> during the 1968 and 1970 election campaigns resulted in a drastic increase in campaign expenses.<sup>2</sup> The high costs accentuate the advantages the wealthy candidate has over his poorer opponent,<sup>3</sup> and intensify the political influence exerted by large contributors.<sup>4</sup> Additionally, the proliferation of television spot ad "blitzes"<sup>5</sup> and decreasing citizen participation in the political

<sup>1</sup> For an interesting account of the Nixon campaign, see J. McGinnis, *The Selling of the President, 1968* (1969); See also I. Chester, G. Hodgson, & B. Page, *An American Melodrama* (1969); Alexander & Meyers, *A Financial Landslide for the G.O.P.*, *Fortune*, Mar. 1970, at 104. In 1968, the Nixon-Agnew campaign was the 70th largest television advertiser (talent and time cost estimated at \$3,922,600), ranking between Schlitz Brewing Company and Monsanto. The Humphrey Muskie campaign ranked 109th (\$2,826,800), between Sperry-Rand and Standard Oil of New Jersey. Most of these expenditures were concentrated in the two-month period before the election. See *Hearings on H.R. 8627, H.R. 8628 and Related Bills Before the Subcomm. on Power and Communications of the House Comm. on Interstate and Foreign Commerce*, 92d Cong., 1st Sess. 65 (1971) (statement of Congressman John Murphy) [hereinafter cited as 1971 *Hearings on H.R. 8627*].

<sup>2</sup> The total cost of campaigning for all offices rose from \$200,000,000 in 1964, to \$300,000,000 in 1968, an increase of 50 percent in four years. See Alexander & Meyers, *supra* note 1, at 104. The Senate primary in California in 1964 cost \$1,817,881 for both candidates. The 1970 Senate primary cost \$3,719,436. Together the senatorial primary and general election in California cost over \$7,000,000. See 1971 *Hearings on H.R. 8627*, at 112 (memorandum of Edmund G. Brown Jr. to the FCC).

<sup>3</sup> Twenty of the candidates for United States Senator in 1970 were known millionaires. Of the 15 Senate candidates in the largest states in 1970, 11 were millionaires. The four nonmillionaires lost. *Hearings on S. 382 Before the Subcomm. on Privileges and Elections of the Senate Comm. on Rules and Administration*, 92d Cong., 1st Sess. 91 (1971) (statement of Sidney Schenz, Nat'l Comm. for an Effective Congress) [hereinafter cited as 1971 *Hearings on S. 382*].

<sup>4</sup> An incident during the 1968 presidential campaign illustrates the vulnerability of a badly financed candidate to political influence. During September and October of 1968, Vice President Humphrey's campaign was in desperate financial straits. A group of wealthy New Yorkers attempted to arrange a one hour private interview with him in New York at which he would be subjected to questioning about his position on the Vietnam War. If he would change his position to their satisfaction they would give him \$1,000,000 and would raise \$2,000,000 or \$3,000,000 more. The meeting, however, never occurred. Alexander & Meyers, *supra* note 1, at 187. Political influence generally is not exerted so blatantly. When asked why he gave large contributions, an oil company executive reportedly stated: "We're not trying to buy votes. We are trying to buy an entry to talk about our problems." 1971 *Hearings on S. 382*, at 92.

<sup>5</sup> Between 1964 and 1970 the proportion of broadcast money spent on advertisements of five minutes or longer declined 38 percent. The lack of federal regulation in this field has permitted the broadcast industry to make key decisions affecting the quality of public debate. During the 1968 campaigns the National Broadcasting Company deliberately encouraged spot advertising by offering a 50 percent discount on such advertisements. In order to minimize the effect on regular commercial advertising the spots were provided by paying time from regular programs. All other time slots were sold at regular prices. By contrast, the Columbia Broadcasting System gave reduced rates for five minute advertisements scheduled at the end of abbreviated programs. See Alexander, *Communications and Politics: The Media and the Message*, 34 *Law & Contemp. Prob.* 255, 264 (1969).

process<sup>4</sup> demonstrate a decline in the dignity and effectiveness of the American political process.

This electoral crisis has developed largely because of the total inadequacy of the statutory framework governing the financing of federal elections. The Federal Corrupt Practices Act of 1925,<sup>5</sup> as supplemented by the Hatch Political Activity Act of 1939,<sup>6</sup> ostensibly establishes strict contribution limitations and reporting requirements for federal elections.<sup>7</sup> However, each of these statutes is riddled with loopholes which foster unreported contributions and a lack of personal responsibility for expenditures.<sup>8</sup> Enforcement of these provisions has been virtually nonexistent: no candidate has ever been prosecuted for exceeding the contribution limitation.<sup>9</sup>

The only previous regulation of political broadcasting, the so-called "equal time" provision of the Communications Act of 1934,<sup>10</sup> similarly is inadequate to deal with the increasing use and expense of broadcast media. This section requires that all candidates be given an equal opportunity to buy air time at commercial rates. The Act also requires that if a broadcaster offers free time to a candidate, he must offer each of his opponents an equal amount of free time.<sup>11</sup> Broadcasters are thus prohibited from discriminating between specific candidates or against candidates in general in providing air time. The Act does not attempt to limit expenses or to redress the financial differences between candidates. Furthermore, the law does nothing to promote candidates' access to the media. Indeed, the law may actually have a contrary effect. Broadcasters maintain that this provision actually results in little free time being made available because of the proliferation of minor candidates who would have to be accommodated.<sup>12</sup>

<sup>4</sup> Despite the increased television expenditures during the 1960's, the percentage of voters participating in congressional elections has declined slightly. See D. Rosenbloom, *Electing Congress: The Financial Dilemma* 9-13 (1970) (report of the Twentieth Century Fund Task Force on Financing Congressional Campaigns) (hereinafter cited as *Rosenbloom*). Although voter participation in the 1968 presidential campaign election was 4.9 million greater than in 1960, the entire increase occurred in the 13 states of the old Confederacy. The potential vote in these states had greatly increased because of federal civil rights laws and voter registration drives. The potential vote in the other states had increased by 7.4 million between 1960 and 1968, but the actual vote was smaller. See Rapoport, *Party Alignment: The Biggest Shift in Forty Years*, Nov. 1971, at 20.

<sup>5</sup> Ch. 348, §1 201-17, 43 Stat. 1070, as amended, 2 U.S.C. §§ 241-50 (1970) and 18 U.S.C. § 602 (1970).

<sup>6</sup> Ch. 410, §§ 1-9, 10-11, 13, 17, 19, 24, 53 Stat. 1147, as amended, 18 U.S.C. §§ 201-412 (1970).

<sup>7</sup> The law prohibits a contributor from giving more than \$5,000 to a particular campaign. 18 U.S.C. § 608 (1970). However, by means of several expedients he may actually give an unlimited amount and arguably remain within the statutory provisions. He may give \$5,000 each to as many political committees as he wishes. See Alexander & Meyer, *supra* note 1, at 146. A contributor can also split his contribution into \$5,000 units and then donate them through the members of his family. In a suit to enforce section 608 brought by Common Cause against the two major parties, both parties have stipulated that they have sought and received contributions in excess of \$5,000. Common Cause v. Democratic Nat'l Comm., Civ. No. 61-71 (D.D.C. filed Jan. 11, 1971); motion to dismiss denied, 333 F. Supp. 803 (D.D.C. 1971) (plaintiffs had standing and their complaint stated a justiciable cause of action); see Washington Post, Oct. 2, 1971, § A at 1, cols. 2-3.

<sup>8</sup> Reporting requirements are easily evaded. Political committees organized within a single state and committees organized within the District of Columbia do not have to file federal reports unless they are a branch of a national committee. 2 U.S.C. § 241(c) (1970). Primary elections are not included in the provisions. Furthermore, candidates do not have to report contributions made without their "knowledge or consent." 2 U.S.C. § 246(a) (1970). To establish his lack of knowledge or consent a candidate has only to sign a disclaimer. The reports themselves are filed with the Clerk of the House of Representatives and the Secretary of the Senate. *Id.* Neither office has exhibited the staff expertise, the enforcement of powers nor the inclination to police their employers in Congress. Prosecutions are the responsibility of the Attorney General who is usually reluctant to indict prominent members of his own or the opposing party. Thus, in 1968, 192 candidates for Congress filed reports stating they had no reportable expenditures or contributions. Only \$8452.87 was reported nationally for all federal offices although over \$50,000,000 was spent. See Rosenbloom 47.

<sup>9</sup> See Common Cause v. Democratic Nat'l Comm., 333 F. Supp. 806 (D.D.C. 1971).

<sup>10</sup> 47 U.S.C. § 315(a) (1970).

<sup>11</sup> *Id.*

<sup>12</sup> The suspension of section 315(a) in 1960 made possible the Kennedy-Nixon debate. Television networks that year provided 30 1/2 hours of free time. In 1964, 4.5 hours, and in 1968, three hours of free time were provided, most of which was in news interview programs which are exempt from section 315(a). Federal Communications Commission, *Survey of Political Broadcasting: Primary and General Election Campaigns of 1968*, Table 4 (1969) (hereinafter cited as FCC Survey). The repeal or curtailment of section 315(a) was a major source of controversy during consideration of the Campaign Communications Reform Act but ultimately no mention was made of the section. See note 50, 77 *infra* and accompanying text. See generally Campaign Communications Reform Act, Pub. L. No. 92-225, 84 Stat. 3 (1972).

The last few years have witnessed numerous attempts at election reform.<sup>22</sup> The most notable instance was S. 3637, a bill introduced in the 91st Congress, which attempted to reduce expenses and control television-based campaigns by limiting broadcast expenditures to \$67 times the total number of votes cast for the office in the previous election.<sup>23</sup> However, President Richard M. Nixon raised numerous objections concerning the scope and direction of this proposal and vetoed the bill.<sup>24</sup>

In response to this veto, and to the continued need for reform, further legislation was introduced in the 92d Congress by a bipartisan group of Senators. The Senate passed the bill, S. 382, by a large majority,<sup>25</sup> and a somewhat different version was passed in the House of Representatives.<sup>26</sup> A compromise version reported out of Conference Committee<sup>27</sup>—the Federal Election Campaign Act of 1971—was recently approved by both houses and signed by the President. This Comment discusses the salient features of that Act and attempts to delineate anticipated strengths and weaknesses.

#### CAMPAIGN COMMUNICATIONS

The Campaign Communications Reform Act, title one of the Federal Election Campaign Act of 1971, is intended to reduce campaign spending while maintaining reasonable access to advertising media. The remainder of the Federal Election Campaign Act of 1971 is intended to improve the regulation of campaign conduct. Campaign spending is to be reduced by establishing a ceiling for certain advertising media expenses. However, despite this ceiling, access to the media will be maintained by setting rates charged to candidates at the lowest unit rate charged to commercial advertisers. To avoid the regulatory difficulties of previous legislation, most contribution limitations are repealed, although very strict reporting requirements are established. The Clerk of the House, the Secretary of the Senate, and the Comptroller General are given extensive rule-making and adjudicatory powers in order to enforce the Act. However, several important measures included in the Senate version were rejected by the Conference Committee. The establishment of a Federal Election Commission to supervise elections and the repeal of the equal time provision of the Communications Act of 1934 so as to encourage the offer of free time were the most notable deletions.

#### SPENDING LIMITATIONS

The Campaign Communications Reform Act divides campaign spending into three classes—spending for broadcast media (radio and television), for non-broadcast communications media (newspapers, magazines, billboard facilities and

<sup>22</sup> The volume of campaign reform legislation proposed during the last few years illustrates the great interest in the field. Sixty bills were introduced in the 90th Congress, 34 in the 91st Congress, and 59 in the first seven months of the 92d Congress. See Legislative Reference Service, Library of Congress, *Compilation of all Proposals to Reform Campaign Financing Introduced in the 90th, 91st, and 92d Congresses (1971)*.

One attempt was successful to the extent of being enacted into law, but it has not been utilized to date. See Presidential Election Campaign Fund Act of 1966, Pub. L. No. 89-808, §§ 802-05, 80 Stat. 1597, as amended, 26 U.S.C. § 6096 (1970) and formerly codified at 31 U.S.C. §§ 971-73 (1970). The Act permitted each taxpayer to contribute one dollar to a general campaign fund merely by checking a block on his income tax return; the fund was to be distributed among the various political parties. In 1967, Congress provided that no funds collected under the above provisions should be disbursed until after the adoption by Congress of guidelines for their distribution. Act of June 13, 1967, Pub. L. No. 90-26 § 5, 81 Stat. 58. At last, Congress, in a section of the Revenue Act of 1971, established the machinery to implement the original proposal, effective January 1, 1973. See Revenue Act of 1971, Pub. L. No. 92-178, §§ 801-02 (Presidential Election Campaign Fund Act), 85 Stat. 562, to be codified at 26 U.S.C. §§ 6096, 9001-13, 9021.

<sup>23</sup> S. 3637, 91st Cong., 2d Sess. (1970). See Note, *Campaign Spending Regulation: Failure of the First Step*, 8 Harv. J. Legis. 640 (1971).

<sup>24</sup> S. 3637 does not limit the overall cost of campaigning. It merely limits the amount that candidates can spend on radio and television. In doing so, it unfairly endangers freedom of discussion, discriminates against the broadcast media, favors the incumbent officeholder over the officeseeker and gives an unfair advantage to the famous. It raises the prospect of more—rather than less—campaign spending. It would be difficult, in many instances impossible, to enforce and would tend to penalize most of those who conscientiously attempt to abide by the law. S. Doc. No. 109, 91st Cong., 2d Sess. 1 (1970).

<sup>25</sup> See S. 382, 92d Cong., 1st Sess. (1971). The primary architects of the bill were Senators Pastore, Cannon, Mathias, and Pearson. The final vote was 88-2, 117 Cong. Rec. R13301 (daily ed. Aug. 5, 1971).

<sup>26</sup> Two substantially different versions came to the House floor, H.R. 11060 and H.R. 11231. Ultimately, a revised version of H.R. 11060 was passed by a vote of 373-23, 117 Cong. Rec. R11509 (daily ed. Nov. 30, 1971).

<sup>27</sup> H.R. Conf. Rep. No. 752, 92d Cong., 1st Sess. (1971).

mass telephoning), and spending for all other campaign purposes. The decision to limit broadcast and nonbroadcast media expenditures rather than to establish overall limitations was based on the great expense of those items and upon the belief that other limitations might be difficult to enforce.<sup>11</sup>

Broadcast and nonbroadcast expenditures are subject to a ceiling of \$.10 times the voting age population of the election district.<sup>12</sup> However, only 60 percent of this ceiling amount may be spent for the use of broadcast media.<sup>13</sup> In those districts where this figure is less than \$50,000, the candidate may spend up to that amount.<sup>14</sup> Thus, the total expendable amount in broadcast and nonbroadcast media for each candidate is \$.10 per potential voter or \$50,000, whichever is greater.<sup>15</sup> In addition, there is a provision in the Act designed to compensate for the effects of inflation. At the beginning of each calendar year, the Secretary of Labor will certify to the Comptroller General the percentage increase in the Consumer Price Index during the preceding 12 months. The Comptroller General then will adjust spending limitations accordingly.<sup>16</sup> For the foreseeable future, this restriction seemingly will tend to reduce the actual ceiling for the broadcast media since their costs have tended to rise faster than have prices in general.

#### DEFINING "CANDIDATE"

A serious difficulty with the newly enacted statute concerns the definition of a candidate for purposes of limiting expenditures. Campaign expenditures are charged to any "legally qualified candidate"—a person who is qualified for the office under federal law and who is eligible under the applicable state statute to be voted for by the electorate.<sup>17</sup> Thus, even though he may be a de facto candidate in the eyes of the public,<sup>18</sup> the expenditure ceiling is not triggered until a candidate has formally filed for office. A candidate could therefore avoid the limitations by delaying his formal candidacy for as long a period as possible.

However, this avenue of avoidance is sealed off for candidates for the Presidency. A person is considered a presidential candidate when an expenditure for the use of communications media is made on his behalf. The ceilings come into effect either at the time of the expenditure or on January 1 of election year, whichever is later. Thus, the ceiling is applied regardless of whether a candidate has formally declared or not, but not before January 1 of election year.<sup>19</sup>

<sup>11</sup> See H. R. No. 94, 92d Cong., 1st Sess. 30 (1971).

<sup>12</sup> Campaign Communications Reform Act, Pub. L. No. 92-225, § 104(a)(1)(A)(i), 86 Stat. 5 (1972).

<sup>13</sup> Id. § 104(a)(1)(B), 86 Stat. 5. S. 382 originally limited spending to \$.05 per potential voter for broadcast media and \$.05 for nonbroadcast media. A candidate was allowed to shift \$.01 from one category to the other. Thus, he could spend up to \$.06 for either media category and \$.04 for the other. S. 382, 92d Cong., 1st Sess. § 104(a) (1971). Although the media ceiling still totaled \$.10 per potential voter, the formula was unduly restrictive in preventing a candidate from transferring his spending to nonbroadcast media.

Many areas have unusual broadcast situations which make extensive broadcast advertising impractical. For example, the state of New Jersey has no television stations and must depend on New York City and Philadelphia television stations for coverage. Yet those two cities are the two most expensive television markets in the nation: one-half hour of time costs \$8,000 in New York and \$3,000 in Philadelphia, as compared to \$1100 in Washington, D.C. or \$1200 in San Francisco. See 1971 Hearings on H. R. 9487, at 52. The cost of television per 1000 voters in southern Connecticut, a part of the New York market, is 20 times that of San Francisco. See 1971 Hearings on S. 381, at 126. Full state television coverage in Kentucky requires the use of all Kentucky stations and of stations in Ohio, Indiana, Illinois, Tennessee, West Virginia, Missouri, and Virginia. Id. at 160. In these areas, spending flexibility would permit greater reliance on the nonbroadcast media.

All population data for the purposes of these formulae will result from special estimates provided by the Bureau of the Census in the year preceding the election campaign. Campaign Communications Reform Act, Pub. L. No. 92-225, § 104(a)(5), 86 Stat. 6 (1972).

<sup>14</sup> Campaign Communications Reform Act, Pub. L. No. 92-225, § 104(a)(1)(A)(ii), 86 Stat. 5 (1972).

<sup>15</sup> For an indication of the varying effect the Act may have on radio and television spending by political candidates, see 117 Cong. Rec. 812,874 (daily ed. Aug. 2, 1971) (spending in 1970 Senate races as compared with legislative ceiling).

<sup>16</sup> Campaign Communications Reform Act, Pub. L. No. 92-225, § 104(a)(4), 86 Stat. 6 (1972).

<sup>17</sup> Id. § 102(4), 86 Stat. 4.

<sup>18</sup> See 117 Cong. Rec. 811,370 (daily ed. July 20, 1971) (remarks of Senator Mathias). If a state allows write-in candidates, there would be less difficulty with this section since a candidate would be qualified as soon as it is determined that he intends to run. H.R. 11060 originally applied the limitations to anyone who receives contributions or makes expenditures or who gives his consent to someone else to do so. The de facto candidate thus would have been covered by this version. See H. R. 11060, 92d Cong., 1st Sess. § 1(2)(B) (1971).

<sup>19</sup> Campaign Communications Reform Act, Pub. L. No. 92-225, § 104(a)(3)(B), 86 Stat. 5 (1972).

## OVERALL SPENDING LIMIT

k of an overall spending limit in addition to or instead of media controls likely seriously hamper the effectiveness of the statute. Many significant not encompassed by the spending limitations. Such items include the one mailings, campaign materials, transportation, staff salaries, public oile, the services of public relations firms, and the cost of producing monts.<sup>10</sup>

tirely conceivable that the overall effect of spending controls will not be expenditures, but rather to redistribute them. For example, it can be that short spots, which are considerably more expensive than longer g segments,<sup>11</sup> will be replaced by longer advertisements. Advertising ill shift from television to the cheaper and less utilized publishing 'perhaps the most significant impact will be the deepening of the non-ess of campaign expense. Money will be reallocated from television g to computerization of mass mailings and telephone campaigns, to local rticles such as rallies and parties, to public opinion polling, and to door- nvasing. Despite some potentially positive effects of this reallocation, a with ample finances will continue to maintain a great advantage over ant.<sup>12</sup>

## LOWEST UNIT RATE

ampaign Communications Reform Act multiplies the actual impact of ant on broadcast advertising by limiting the rates which the broadcast : charge during a 45-day period before a primary election and a 60-day fore a general election. During these time periods, media cannot demand : the "lowest unit rate" charged other commercial advertisers for simi- ' The lowest unit rate requirement grants, in effect, a 35 to 50 percent on all types of media advertising employed in political campaigns.<sup>13</sup> nd 60-day periods during which the lower rate is to apply also would ortan campaigns by concentrating spending in the low-cost time period.<sup>14</sup>

ng upon the Goldwater presidential campaign of 1964, expenses which even now be subject to the Act's limitations totaled \$6,087,213, expenses now covered by imed \$8,666,184. Although there has been a drastic rise in television time since ncovered expenses remain a significant element of campaign costs. See 1971 s H. R. 8687, at 87.

ombleson 77. Eight to 10 one minute spots could cost as much as one-half hour air time. Id. Congressman James Wright of Texas reported spending \$10,000 for hour program carried over 17 stations when he was running for state wide ater discovered that the same amount of time in short spots would have cost 000. 1971 Hearings on H. R. 8687, at 60. However, much of this potential shift spots will probably be negated by the lowest unit rate and unlimited production es. See notes 34-46 *infra* and accompanying text.

3, political advertisers bought 19,310,406 lines of advertising in newspapers at 118,182,085 08 or \$ 68 per line. Editor and Publisher, Dec. 21, 1964, at 11. By 4, in the same year, five million political announcements were broadcast over and radio at a cost of \$49,900,000. F. C. Hurver 2. The ratio of broadcast to at expenditures of approximately three to one is further supported by an rvey conducted by the National Committee for an Effective Congress. See 1971 s H. R. 8687, at 141-43.

gh the overall expenses of the campaign may not decline, these reallocations of old benefit the political system by restoring vitality to the political process at orts level. The remarkable campaign of Senator Lawton Chiles of Florida is be the prototype of "post reform" campaigns. Walikin' Lawton hiked the th of Florida during his campaign, meeting thousands of constituents. He little money on television since he was receiving a great deal of free coverage of the novelty of his campaign. He soundly defeated his opponent who spent 10 times as much money on radio and television. See 117 Cong. Rec. 812674 ug. 2, 1971).

ign Communications Reform Act, Pub. L. No. 92-225, § 103(a)(1), 86 Stat. 4 e term lowest unit rate refers to the technique generally used by broadcasters in g rates. There are three categories of advertising time—fixed time, preemptible immediately preemptible time. Advertisers buying fixed time ads, the most ype, are able to specify in which time slot they want an ad to be broadcast. In a preemptible ad, the next most expensive, the advertiser may specify a time, may be preempted by any advertiser willing to pay the higher fixed rate. Notice advance to the earlier advertiser, and he is given an opportunity to pay the e and thus regain the time slot. Immediately preemptible time, the cheapest ay be preempted by the station without notice to the advertiser. The Campaign ions Reform Act establishes the immediately preemptible rate as the going types of broadcast time that a candidate may desire. On occasion broadcasters "flight plans" to long-term, high-volume advertisers whereby the broadcaster times when the advertisements will be broadcast. The flight plan rate is lower mmediately preemptible rate and, therefore, would be the lowest unit rate for those ore it is offered. See 8 Rep. No. 96, 92d Cong., 1st Sess. 27-28 (1971).

f Cong. Rec. 812674 (daily ed. Aug. 2, 1971) (remarks of Senator Pastore). Rep. No. 96, 92d Cong., 1st Sess. 28 (1971).

The lowest unit rate provision has drawn criticism from the broadcast industry on the grounds that it is unconstitutionally discriminatory and economically unworkable. It is alleged that, under such a requirement, the mass communications industry is being forced to subsidize federal elections, and that many small stations could be forced to the edge of bankruptcy by charging only the reduced rates.<sup>4</sup> The lowest unit rate provision may, however, be justified by long established federal regulation of the broadcast industry.<sup>5</sup>

This justification is not applicable, however, to the nonbroadcast media, newspapers and magazines in particular, which traditionally have not been subject to federal regulation. The campaign spending law prohibits publishers from charging more than "charges made for comparable use of such space for other purposes."<sup>6</sup> The purpose of this measure is to prevent publishers from discriminating against campaign advertising or among competing candidates.

The comparable use provision arguably is subject to first amendment challenge on several grounds. Government regulation of the rate schedule is an infringement upon the financial freedom of the press and could perhaps be used as an instrument to intimidate publishers.<sup>7</sup> An additional difficulty is the uncertainty impact the measure will have on the publishing media. Newspaper rates are established on the basis of a number of factors all of which are related to the type of advertising.<sup>8</sup> Political advertising generally is charged relatively high rates for a variety of reasons. Political advertising is sporadic and concentrated in a short time span. Smaller newspapers are often forced to hire additional staff or to increase the amount of overtime, thus increasing production costs during campaigns.<sup>9</sup> It would be perfectly reasonable, therefore, for a newspaper to charge candidates a higher rate than is charged to other advertisers. Since the statute does not require non-broadcast media to take political advertising, the effect of this price ceiling in the face of higher production costs may be to cause many newspapers, magazines, and billboard companies to refuse to take any political advertising.<sup>10</sup> This restriction upon political discourse would probably violate the first amendment,<sup>11</sup> and, in any event, would conflict with the Act's policy of maintaining the availability of advertising facilities.

#### SELF-ENFORCEMENT

Within the provisions of the Act, a clever system has been devised to provide a measure of self-enforcement of the spending limitations. A broadcast or non-broadcast media company may no longer charge a party for advertising time or space unless the company has received in advance from the candidate a certificate stating that this advertisement will not exceed statutory spending limitations.<sup>12</sup> This provision will give broadcasters and publishers a strong incentive to cooperate with the law. In addition, the certificates will provide a cross-reference to the candidate's financial report, thus making it extremely difficult for him to conceal his media expenditures.

Any advertisement taken out on behalf of a candidate requires certification so that it can be charged against his expenditure limits.<sup>13</sup> If these expenses were not so charged, numerous "independent" committees could run advertisements praising a candidate, and the cost of such advertisements would not be charged to that candidate. This provision serves to prevent possible collusive activity between the candidate and his "independent" supporters, as well as to centralize responsibility for the campaign with the candidate himself.

<sup>4</sup> See 1971 Hearings on S. 362, at 165-66.

<sup>5</sup> See generally 47 U.S.C. §§ 151-600 (1970).

<sup>6</sup> Campaign Communications Reform Act, Pub. L. 92-225, § 103(b), 86 Stat. 4 (1972).

<sup>7</sup> It has been suggested, however, that both broadcast and nonbroadcast advertising rate schedules are part of the respective media's business activities just like their relationships with labor unions or the amount they pay their employees, and thus are subject to congressional legislation. A. Rosenthal, *The Greening of American Elections: Some Constitutional Questions Involved in the Regulation of Campaign Financing*, May 1971 (paper presented to Citizens' Research Foundation seminar in New York City) (copy on file at Geo. L.J.).

<sup>8</sup> For example, newspaper advertising space is sold on a per column inch basis and the costs reflect such factors as the frequency of publication of the newspaper and the size of the ad, the complexity of the ad, the libel hazard the paper runs in printing the ad, and the amount of service required to prepare the ad. See 1971 Hearings on H.R. 8627, at 208.

<sup>9</sup> *Id.* at 212.

<sup>10</sup> *Id.* at 208.

<sup>11</sup> See *Media and the First Amendment in a Free Society*, 80 Geo. L.J. 871, 884-86 (1972).

<sup>12</sup> Campaign Communications Reform Act, Pub. L. No. 92-225, § 104(c), 86 Stat. 7 (1972).

<sup>13</sup> See *id.* § 104(a) (5), 86 Stat. 6.

Despite the sound policy arguments underlying these provisions, many practical problems manifest themselves. If a genuinely independent "public issue" group chose to run a series of ads concerned with a public issue, which by implication endorsed a particular candidate's position or attacked his opponent's position, the prudent broadcaster or publisher would seek a certificate before he would allow the advertisement to be broadcast.<sup>46</sup> The candidate would then be in the position of determining whether or not the organization's advertising was compatible with his own advertising plans. If it were not, he could veto their advertising campaign by refusing to issue a certificate. Similar problems might arise if independent groups endorsed the candidate as the lesser of two evils or if particular independent groups were unpopular, such as the Ku Klux Klan or the Communist Party. The candidate would have veto power over these unwanted endorsements through control of certification. This power to deny independent groups access to the airwaves or the newspapers may, however, be violative of first amendment rights.<sup>47</sup>

It may be possible for a candidate to circumvent spending limitations by arranging collusively for ostensibly independent committees to attack the opposing candidate. Such advertising would technically not be in his behalf and would thus not be included in his spending limitations. The statute, designed to eliminate campaign difficulties, could result ironically in an increase in personal attacks in future campaigns.

Candidates with organizational support would probably be benefited because their expenses could be pooled. A candidate for one office could endorse a candidate for another in the former's advertising. In such a situation, the provisions of the Act are unclear as to which candidate would have to issue the certificate and take responsibility for the expenditure. A reasonable apportionment of such expenses would be difficult, and regulations would have to be promulgated to govern such situations.

#### EQUAL TIME

A significant provision in the original Senate version of the Act was dropped after considerable controversy. Responding to broadcasters' complaints that equal time requirements prevented them from donating free time,<sup>48</sup> Senate bill S. 382 would have repealed the equal time provision of the Communications Act of 1934<sup>49</sup> for all federal elections.<sup>50</sup> The Senate felt that reasonable access to the media would be assured by application of the fairness doctrine, a principle requiring that stations fairly present all sides of significant controversial issues.<sup>51</sup> A broadcaster unfairly treating a major political candidate would be violating his obligation to program in the public interest and, therefore, would be subject to the loss of his license when it came up for renewal.<sup>52</sup> Some Senators felt that such unfair treatment of a candidate might even arouse public attention and produce a reaction in his favor.<sup>53</sup> As a result of the repeal of the 1934 Act, broadcasters would have been able to donate free time to all candidates for federal office, yet the public interest in fair broadcasting also would have been protected.

The House was a bit more skeptical as to the adequacy of the fairness doctrine

<sup>46</sup> See A. Rosenthal, *supra* note 40, at 46.

<sup>47</sup> Because station managers and candidates would have such discretion as to requiring and granting certificates, interest groups may be forced into the position of consulting with candidates and managers during the preparation of their advertising to insure that the ads are certified. This would create an atmosphere of prior censorship and would compromise the independence of these groups. See 117 Cong. Rec. S11570-71 (daily ed. July 20, 1971) (remarks of Senator Mathias).

<sup>48</sup> See note 14 *supra* and accompanying text.

<sup>49</sup> 47 U.S.C. § 315(a) (1970).

<sup>50</sup> S. 382, 92d Cong., 1st Sess. § 101(a)(1) (1971).

<sup>51</sup> The Federal Communications Commission imposes on radio and television broadcasters the requirement that discussion of public issues be presented in their programming, and that each side of those issues be presented fairly. *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 369 (1969). The personal attack aspect of the fairness doctrine is the subject of regulations promulgated in 1967. 47 C.F.R. § 73.123 (1971). The obligation of broadcasters extends beyond the requirement that they provide the opportunity for the expression of opposing views. They have an affirmative duty to encourage the presentation of controversial issues. See 395 U.S. at 393-95. See also Editorializing by Broadcast Licensees, 13 F.C.C. 1246 (1949); *Media and the First Amendment in a Free Society*, 60 Geo. L.J. 871, 1031-45 (1972).

<sup>52</sup> See *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 393-95 (1969).

<sup>53</sup> 117 Cong. Rec. S13003 (daily ed. Aug. 3, 1971) (remarks of Senator Pastore). It should be noted as well that S. 382 prohibited the "willful or repeated failure to allow reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate. . . ." S. 382, 92d Cong., 1st Sess. § 101(c) (1971). This section, however, would probably only have been applied to the more extreme instances of unfairness.

to prevent discriminatory broadcasting. Although the fairness doctrine and public scrutiny might have protected presidential candidates from unfair treatment, it was believed that complete repeal of the equal time provision would prove unwise.<sup>22</sup> Such an action would place enormous power over the conduct of American political campaigns in the hands of the broadcasting industry. With no guidelines other than "fairness," broadcasters would have considerable discretion to determine which candidates were major and which minor, and how to apportion free time among them.<sup>23</sup> Since broadcasting, as a government regulated industry has an interest in the results of any election, a serious potential for abuse of this discretion does exist. To compound this problem, it would be nearly impossible to police 468 separate House and Senate races in a typical election year. The multitude of candidates and offices, the relatively low visibility of the races, and the necessity of resolving any complaints before the election renders them moot would overwhelm the resources of the FCC.<sup>24</sup>

A partial repeal of section 315(a), applying only to presidential and vice presidential contests would serve a salutary purpose. In this form, the repeal would encourage debates between presidential candidates and could result in significant amounts of free time being made available for their discretionary use. The cost of campaign television would be reduced significantly, and the public would benefit from increased exposure to, and confrontation among candidates. Enforcement of the fairness doctrine in this situation would appear more feasible due to the small number of candidates and the high visibility of the presidential campaign. A well-drafted provision could spell out safeguards to protect significant third and fourth party candidates. A limited repeal of this nature would be a significant improvement in the law and could operate effectively within the framework of the Campaign Communications Reform Act.

#### CONTRIBUTION LIMITATIONS

One of the least effective and most unrealistic provisions of federal election law has been the limitation on individual contributions.<sup>25</sup> Unreasonably low contribution limits, coupled with conspicuous nonenforcement, has turned many candidates into conscious evaders of the law. As a result, contributions have not been limited, and it has become nearly impossible to obtain an accurate

<sup>22</sup> The purpose of repealing section 315(a) for federal elections was to remove what was felt to be the major obstacle to the provision of free time. See note 14 *supra*. However, empirically, the broadcaster's contention that equal time prevents them from granting free time appears unsound. For example, 20 of the 34 Senate races in 1966 were contested by only two candidates. Thus, no minor candidates would have been entitled to free time. Nevertheless, only 20 percent of the television stations involved in these races offered free time—the same percentage of stations that offered free time in multi-candidate elections. In 11 close elections 60 percent of the stations sold time, but only 32 percent offered free time. Rosenbloom 78. Similarly, in 1968 in the states where only two candidates were running, only 34 percent of the stations gave free time. However, in the seven states with multi-candidate races, 43 percent of the stations gave free time. FCC Survey 3.

The primary obstacle to free time in most elections is either the refusal of candidates to accept either the offer or the programming judgments of broadcasters. Paid for time is preferable to free time because the candidate has total control over the format of the program. He is able to create an image, emphasize, de-emphasize, or distort issues at will. Free time on the other hand, is uncontrolled and subjects the candidate to challenges by other candidates, newsmen or the public, depending on the format of the program. See J. McGinnis, *supra* note 1, at 30-33, 54-73. See also 1971 Hearings on H.R. 8887, at 66-68. Free time is of great advantage to a lesser known candidate who may be able to achieve recognition and stature as a major candidate. Front runners are therefore often reluctant to take free time. See Alexander, *supra* note 5, at 204. In a presidential election, however, public pressure would restrict a candidate's ability to refuse an offer of free time for debate or for other purposes. On the one occasion when the requirement was suspended for a presidential election the results were quite satisfactory. See note 14 *supra*.

<sup>23</sup> For an example of the potential abuses of this discretion, see 1971 Hearings on H.R. 8887, at 143-64 (categorization of George Wallace's 1968 candidacy as less than major). CBS would determine whether candidates are major on the basis of the reports of journalists covering the campaign, of public opinion polling of the record in the primaries, and the mechanical question of how many ballots on which the candidate's name appears. As a candidate improves his standing by these criteria, he would be apportioned more time, ultimately approaching equal time. *Id.* at 102-63. This policy raises the paradox of a candidate being denied free access to the best medium for arousing public interest and support until he is able to arouse public interest and support.

<sup>24</sup> Furthermore, the FCC has recently come under criticism for allegedly acting in a partisan manner. See 1971 Hearings on H.R. 8887, at 271-90. There could be grave consequences if the FCC abused or was suspected of abusing this discretion on behalf of one party.

<sup>25</sup> See 18 U.S.C. § 606 (1970).



account of a candidate's real expenditures." Thus, Congress determined that contribution limitations would always cause enforcement difficulties<sup>10</sup> and repealed all limitations with one exception.<sup>11</sup> Ideally, the necessary protection against a large contributor buying an election would be provided by the publicity which the statute's reporting requirements would assure.<sup>12</sup> The only exception to the removal of contribution limitations provided by the Federal Election Campaign Act of 1971 is a ceiling imposed on the amount a candidate may contribute in his own behalf.<sup>13</sup> The purpose of the limitation is to prevent a wealthy man from, in effect, purchasing an office.<sup>14</sup> The modest scope of this limitation will make enforcement feasible.<sup>15</sup>

## DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

### POLITICAL COMMITTEES AND REPORTING REQUIREMENTS

Perhaps the most serious flaw in prior attempts to control campaign financing was the nonregulation of political committees. The proliferation of such committees has hidden many expenditures and has effectively diffused the responsibility for campaign expenses.<sup>16</sup> Thus, the provision for adequate regulations to govern the activities of political committees and to ensure strict accounting for all campaign finances is a key element of the Federal Election Campaign Act of 1971.<sup>17</sup>

Any committee which is likely to spend more than \$1000 for election purposes within the calendar year must appoint a chairman and a treasurer<sup>18</sup> and file a statement of organization with supervisory officials.<sup>19</sup> The committee officers have two duties—to keep a detailed account of all expenditures and receipts<sup>20</sup> and to

<sup>10</sup> See notes 9-10 *supra* and accompanying text.

<sup>11</sup> See 1971 *on S. 382*, at 52-53.

<sup>12</sup> See Federal Election Campaign Act of 1971, Pub. L. No. 92-225, § 203, 86 Stat. 9 (1972), amending 18 U.S.C. § 604 (1970).

<sup>13</sup> But see Letter from John Gardner, Chairman of Common Cause, to Senator Frank Moss, July 27, 1971 (copy on file at Geo. L.J.). Common Cause recommends contribution limitations. The organization feels that the overall benefit of the large contribution would outweigh the inhibitory effect of the adverse publicity.

<sup>14</sup> Federal Election Campaign Act of 1971, Pub. L. No. 92-225, § 203, 86 Stat. 9 (1972). This prohibition embraces the candidate's family as well. A presidential candidate is limited to \$30,000; a senatorial candidate, to \$35,000; a House candidate to \$25,000.

<sup>15</sup> There were notable instances of extraordinary personal expenditures in 1970 in New York, Ohio, Pennsylvania, and California. See 1971 *Hearings on S. 382*, at 139 (statement of Senator Baker).

<sup>16</sup> Among the other changes made by title II of the Act, section 205 is of significance. Section 610 of title 18 prohibits contributions by labor unions. Recently, in *United States v. Pipefitters Local 562*, the conviction of union officers for violations of this section was upheld, 434 F.2d 1116 (8th Cir.) *aff'd on rehearing*, 434 F.2d 1127 (8th Cir. 1970), cert. granted, 402 U.S. 994 (1971), (No. 70-239). In this case the funds were collected and distributed by a separate political committee affiliated with the union; the court felt, however, that the relationship between the organizations was so close that the union was in fact making the contributions. The decision threatened to obstruct unions' ability to contribute funds through labor committees. Section 205 of the Federal Election Campaign Act of 1971, however, removes this threat by permitting contributions collected and expended through a separate segregated fund. Federal Election Campaign Act of 1971, Pub. L. No. 92-225, § 205, 86 Stat. 10 (1972) amending 18 U.S.C. § 608 (1970).

<sup>17</sup> See notes 9-10 *supra*.

<sup>18</sup> Federal Election Campaign Act of 1971, Pub. L. No. 92-225, §§ 301-11, 86 Stat. 11 (1972).

<sup>19</sup> *Id.* § 302(a), 86 Stat. 12.

<sup>20</sup> Federal Election Campaign Act of 1971, Pub. L. No. 92-225, § 303(a), 86 Stat. 14 (1972). This statement must give the name and address of the committee, the names, addresses and relationships of any affiliated organizations, the jurisdiction and scope of the organizations, the names and addresses of the custodian of the books and of all other officers, the names and addresses of each candidate or party which the committee will support, the location of all funds, the intended disposition of any residual funds and a statement of any reports required by state or local law. In addition, the committee must provide any other information required by the appropriate supervisory officer. *Id.* § 303(b), 86 Stat. 14. The positions of treasurer and chairman must be filled at all times, and the committee will not be permitted to function if either position is vacant. *Id.* § 302(a), 86 Stat. 12. It would be possible, of course, to avoid these committee provisions by creating a multitude of committees, each of which would spend less than \$1,000. In a campaign any *vis*, however, this expedient would be impractical.

<sup>21</sup> The committee must keep a record of every contribution in excess of \$10 and every expenditure over \$100. *Id.* §§ 302(c), (d), 86 Stat. 13. Smaller contributions seemingly will be discouraged because of the administrative costs of accounting for them. See AFL-CIO, Statement on Campaign Financing Legislation (1971) (copy on file at Geo. L.J.).

submit periodic financial reports.<sup>14</sup> Any individual contributor who expends more than \$100 within a calendar year must also follow these reporting procedures.<sup>15</sup> The financial reports must be filed on the tenth of March, June, and September 15 and five days prior to the election, and by January 31 of the year following the election.<sup>16</sup> Any contribution over \$5000 made in the last five days of the campaign must be reported within 48 hours,<sup>17</sup> so as to prevent any unreported late minute shifts of funds into a campaign. The reports are to be kept by the supervisory officer who will cross-index, code, and publish them.<sup>18</sup> This officer will also initiate a uniform system of bookkeeping to permit easy comparison of reports.<sup>19</sup> To guarantee public access to this financial information, copies of reports in each jurisdiction will be kept on file with the Secretary of State or an equivalent official of the appropriate state.<sup>20</sup>

This area of the Act could have the most meaningful effect on the problem of regulating campaign expenditures. Most importantly, the statute promulgates regulations to govern the creation and conduct of political committees. Each committee will be guided by officers responsible for its conduct, officers with specific duties to perform. In addition, the repeal of contribution limitation eliminates the chief incentive to proliferate committees. The number of committees will most likely decline, and the quick dissemination of readily comprehensible reports will have a salutary effect on the dignity and honesty of the electoral process.

#### ENFORCEMENT—SUPERVISORY OFFICERS

Enforcement of any law respecting the conduct of the electoral process presents special difficulties. To be effective, the enforcement agent must be independent, impartial, and have adequate staff and enforcement powers. The Federal Corrupt Practices Act vested authority to supervise federal elections in the Secretary of the Senate and the Clerk of the House of Representatives. These officials are employees of Congress and maintain small staffs and budgets.<sup>21</sup> In the past they have had neither the facilities nor the inclination to police their employers, particularly when the result of their efforts could have been to imprison popularly elected officials of the United States Government. Unfortunately, the Federal Election Campaign Act of 1971 chose to perpetuate past mistakes by vesting enforcement authority in the Secretary of the Senate for senatorial races, the

<sup>14</sup> Federal Election Campaign Act of 1971, Pub. L. No. 92-235, § 304(a), 86 Stat. 14 (1972). The reports are to be made on a standard reporting form to be furnished by the supervisory officer. *Id.* § 303(a)(1), 86 Stat. 16. They must state the total amount of cash on hand at the beginning of the reporting period, the name, address, and amount of all contributors who gave more than \$100 during the calendar year to the committee, the sum of all contributions of \$100 or less made during the reporting period, the name and address of any candidate or committee from which or to which any transfers of funds were made, the total proceeds of any fund-raising events, the sum total of all receipts during the period, the names of all persons to whom expenditures in excess of \$100 during the year were made, the sum total of expenditures made during the period, the debts owed by the committee, and any other information required by the supervisory officer. To facilitate publicity, all persons identified as contributors or as receiving money must be identified by occupation and place of business. *Id.* § 304(b), 86 Stat. 16. In addition, reports must be made on convention financing. *Id.* § 307, 86 Stat. 16.

<sup>15</sup> Federal Election Campaign Act of 1971, Pub. L. No. 92-235, § 305, 86 Stat. 10 (1972). The individual contributor's activities in an election are revealed without the necessity of extensive examination of committee reports. See AFL-CIO, Statement on Campaign Financing Legislation (1971) (copy on file at Geo. L.J.).

<sup>16</sup> Federal Election Campaign Act of 1971, Pub. L. No. 92-235, § 304(a), 86 Stat. 14 (1972).

<sup>17</sup> It is still possible, however, for an individual contributor to conceal the beneficiary of his support. The contributor could contribute money to a committee with the proviso that the funds be given to a particular candidate. The committee would have to report the contribution it passed on to the candidate as its own contribution. Thus, there would be no reported link between the candidate and the original contributor.

<sup>18</sup> *Id.* This section could be easily evaded by making contributions of slightly less than \$5,000 and by donating in the names of several parties. Thus large sums of money given in the last few days of the campaign would remain unreported until after the election. See 117 Cong. Rec. S12276 (daily ed. Aug. 5, 1971) (remarks of Senator Long).

<sup>19</sup> Federal Election Campaign Act of 1971, Pub. L. No. 92-235, § 303(a)(2), 86 Stat. 17 (1972).

<sup>20</sup> *Id.* § 303(a)(2), 86 Stat. 16.

<sup>21</sup> *Id.* § 303, 86 Stat. 16.

<sup>22</sup> The Clerk of the House of Representatives has 260 employees, 136 of whom are assigned to supply maintenance, telephone service, an audio-visual department, and engineering. There is only one staff attorney. See *Hearings on Legislative Branch Appropriations Before a Subcomm. of the House Comm. on Appropriations*, 92d Cong. 1st Sess. 631-65 (1971). The Secretary of the Senate has 150 employees, 64 of whom are messengers, clerks, reporters, transcribers, librarians, payroll clerks, and document room assistants. There is no staff attorney. See S. Doc. No. 37, 92d Cong. 1st Sess. 1-3 (1971).

Clerk of the House for House races, and the Comptroller General for all other federal campaigns.<sup>10</sup>

These officers, however, have been granted extensive new powers to employ in the administration of the Act. They are vested with responsibility for the mechanical aspects of each campaign—providing reporting forms, establishing the bookkeeping system, and collecting, indexing, and publishing reports.<sup>11</sup> They are also vested with rulemaking and adjudicatory powers to deal with the complex problems likely to arise under the statute.<sup>12</sup> In the event of a complaint, the supervisory officers are empowered to hold hearings and upon determining that a complaint is justified, can request the Attorney General to seek injunctive relief in federal district court.<sup>13</sup> The power to request an injunction is the only enforcement power the officers possess.<sup>14</sup> The officers' primary exercise of authority will be through the establishment of rules and uniform procedures governing the conduct of campaigns. Their use of the adjudicatory process, and the publicity that would result from the instigation of proceedings is an additional method of exerting control. The injunctive remedy would only be used in extreme cases. Because political campaigns are extremely sensitive to adverse publicity, these powers may be sufficient. The Act also provides for criminal penalties, but they are not tailored to the special circumstances of election law violations.<sup>15</sup>

S. 882 had originally proposed the creation of a Federal Elections Commission to administer the Act. The Commission would have been an independent body appointed by the President with its own budget and with all powers the supervisory officers are now given.<sup>16</sup> The FEC would have been a major improvement over the present system because of its independence, its greater facilities, and its capacity to develop expertise in conducting elections. The deletion of this measure and the continuation of enforcement and administrative powers in the Clerk of the House, the Secretary of the Senate, and the Comptroller General seriously jeopardizes the effectiveness of the new provisions.

#### REGULATED INDUSTRIES

Under the provisions of the Hatch Political Activity Act of 1969, banks are prohibited from making campaign contributions.<sup>17</sup> In 1971, indictments were returned against several banks in Texas and Ohio which had extended bona fide loans to candidates.<sup>18</sup> The Federal Election Campaign Act of 1971 permits legiti-

<sup>10</sup> Federal Election Campaign Act of 1971, Pub. L. No. 92-225, § 301(g), 86 Stat. 12 (1972). Despite a larger staff, the Comptroller General is also an inappropriate enforcement agent. See 117 Cong. Rec. 812883 (daily ed. Aug. 2, 1971).

<sup>11</sup> Federal Election Campaign Act of 1971, Pub. L. No. 92-225, § 305(a), 86 Stat. 16 (1972).

<sup>12</sup> Id. § 308(d), 86 Stat. 18.

<sup>13</sup> Id.

<sup>14</sup> The powers of the supervisory officers were originally to have been invested in a Federal Elections Commission. S. 882, 92d Cong., 1st Sess. § 810 (1971). Because it lacked an independent staff, this Commission would have been forced to rely on the Attorney General to seek injunctive relief. The measure was retained in the final version for the supervisory officers. It is possible that serious liaison problems with the Attorney General could develop in the course of a highly partisan campaign.

<sup>15</sup> Violations can be punished by a year's imprisonment and a \$1,000 fine. Federal Election Campaign Act of 1971, Pub. L. No. 92-225, § 311, 86 Stat. 19 (1972). The Attorney General would be extremely reluctant to prosecute, and the courts would be similarly reluctant to convict or sentence, candidates or officials elect of the United States Government.

An interesting and innovative alternative was provided by H.R. 11060 which distinguished between noncandidate and candidate violators of the law. Noncandidate violators would have been subject to criminal penalties similar to those in the Act. Presidential and vice presidential candidates would have been fined up to \$25,000, but would not have been imprisoned. Candidates for federal offices other than Presidency would have been barred from office until they complied with the law. H.R. 11060, 92d Cong., 1st Sess. § 6 (1971). This scheme would have permitted a court to enforce the law without precipitating a political crisis by jailing federal officials.

<sup>16</sup> S. 882, 92d Cong., 1st Sess. § 810 (1971). The Commission was to consist of six members chosen by the President and confirmed by the Senate. Not more than three of the members were to be from the same party. The members were to serve staggered 12 year terms. Id. § 810(a). The Commission would make use of the facilities and personnel of the General Accounting Office and the Department of Justice. By permitting the Commission to borrow the bureaucracy of these two agencies, the Senate attempted to avoid the creation of an independent election bureaucracy which would operate only every two years. See 117 Cong. Rec. 812891 (daily ed. Aug. 3, 1971) (remarks of Senator Cannon). However, the effect may have been to hamstring the Commission by preventing the development of an independent staff with election expertise, and by forcing it to rely on bureaucrats serving two masters.

<sup>17</sup> 18 U.S.C. § 810 (1970).

<sup>18</sup> See 1971 Hearings on S. 882, at 199.

mate loans made in the ordinary course of business—with appropriate interest charges and collateral.<sup>22</sup>

Many regulated industries are reluctant to require deposits or advance payments from candidates, since a candidate denied service might win election and achieve influence over the regulation of that industry. As a result, at the conclusion of a campaign such corporations are often owed large sums of money which they have little chance of collecting.<sup>23</sup> Therefore, the Act requires appropriate administrative agencies to establish regulations to govern the granting of credit.<sup>24</sup> Although this section is intended primarily to protect regulated industries from making de facto gifts of their services which result from nonpayment of campaign debts, this measure will also serve to penalize financially improvident candidates and parties by establishing more stringent credit regulations.

#### OBSTACLES TO SUCCESS

In response to serious deterioration of the American political process, Congress, in the Federal Election Campaign Act of 1971, has proposed a significant departure from previous campaign regulation attempts. Unlike the Federal Corrupt Practices Act and the Hatch Political Activity Act of 1969, the Federal Election Campaign Act of 1971 attempts to solve campaign finance problems by limiting costs, by requiring strict reporting of expenses and contributions by carefully regulating political committees, and by expanding supervisory officers' power to regulate election campaigns.

Despite many improvements over current legal controls, the Act suffers from marked inadequacies which may cripple its effectiveness. The lack of an overall spending limitation will continue to allow the rich man to maintain an advantage over his poorer opponent, and the certification process will remain a cause of unending confusion and potential first amendment challenges. The failure to repeal section 315(a) with respect to presidential candidates may prevent them from benefiting from free alternatives to expensive national television time. Criminal sanctions provided for by the Act continue to be inappropriate as a deterrent to campaign spending violations. Most importantly, the Act leaves the responsibility of supervision and enforcement in the hands of the same officers who have been unable or unwilling to enforce present laws. Although their powers have been greatly expanded, it remains to be seen whether the Clerk of the House, the Secretary of the Senate, and the Comptroller General will provide the kind of vigorous enforcement effort necessary to improve the conduct of American elections.

A pending case, *Common Cause v. Democratic Nat'l Comm.*,<sup>25</sup> may have significant impact upon the enforcement of election laws. Common Cause brought an action for injunctive and declaratory relief alleging that the two major political parties and the Conservative Party of New York employed and conspired to employ various devices to circumvent illegally the contribution limitations of sections 606 and 609 of title 18 of the *United States Code*. In a memorandum opinion, the district court determined that a civil remedy to enforce the law was available and that Common Cause had standing to sue on behalf of its membership.<sup>26</sup> The ability of private groups and citizens to seek equitable relief

<sup>22</sup> Federal Election Campaign Act of 1971, Pub. L. No. 92-225, § 401, 86 Stat. 10 (1972). See also *id.*, § 205, 86 Stat. 10; 1971 *Hearings on S. 368*, at 180.

<sup>23</sup> For example, as of August 1971, various former presidential candidates owed the Ball System nearly \$1 million. 117 Cong. Rec. S12009 (daily ed. Aug. 2, 1971).

<sup>24</sup> Federal Election Campaign Act of 1971, Pub. L. No. 92-225, § 401, 86 Stat. 10 (1972).

<sup>25</sup> Civ. No. 61-71 (D.D.C., filed Jan. 11, 1971), motion to dismiss denied, 323 F. Supp. 806 (D.D.C. 1971).

<sup>26</sup> 323 F. Supp. 803 (D.D.C. 1971). The court relied on case authority granting civil remedies under criminal statutes when the party bringing suit is a member of the class the law was meant to protect and the criminal penalties are inadequate to protect the class. 323 F. Supp. at 803. The membership of Common Cause consists of contributors, campaign workers, and voters all of whom were meant to be protected by the Act, and the nonenforcement of the statute has long since proven the inadequacy of the criminal sanctions. Common Cause was granted standing on behalf of its membership because the value of their votes, work, and contributions would be nullified if they obeyed the law while others evaded it with impunity. *Id.* at 808.

against violations of election laws would greatly increase the impact of such laws and may even solve many enforcement problems which now exist.

The reporting and certificate requirements will greatly facilitate the analysis of campaign spending. In addition, they provide increased public knowledge of the financial aspects of election campaigns. The ultimate success of campaign reform will depend on the degree to which various candidates and contributors adhere to the new law<sup>1</sup> and the extent to which private citizens and the press involve themselves in its enforcement.

#### CAMPAIGN FINANCE REFORM: POLLUTION CONTROL FOR THE SMOKE-FILLED ROOMS?

*With the passage of the Federal Election Campaign Act on April 7, 1972, came the first reform of campaign finance laws in 45 years. The author examines the changes in campaign techniques that have arisen during those years and analyzes the consequent inadequacies that have developed with the older legislation. He evaluates past reform proposals and follows the slow road to congressional reform of the campaign finance laws. Finally, he discusses and analyzes the recently passed Tax Checkoff legislation and Federal Election Campaign Act with a view towards determining whether they will provide the means to effectively regulate the modern political campaign. The author concludes that, although inadequate in some areas, the new legislation is a promising step forward in regulating campaign finance.*

#### I. THE DILEMMA OF MONEY AND POLITICS

##### A. Rising Cost of Elections

In 1972, it is estimated that candidates for all political offices in the United States will spend \$400 million in their campaigns,<sup>2</sup> which represents a 33 percent increase over the 1968 election year when candidates spent an estimated \$300 million, and almost a 200 percent increase over the 1952 figure of an estimated \$140 million.<sup>3</sup> A candidate for the Senate from a major state will face an average of

<sup>1</sup> To insure that the winner of the Democratic nomination has some funds left to tap for the general election, all the major Democratic candidates have recently agreed to limit their expenditures for radio and television in each primary state to \$.05 per registered Democrat. A further agreement to limit spending on newspaper, magazine, and direct mail advertising is being considered. This voluntary agreement, based on the number of registered Democrats, is actually more restrictive than the Act's formula which is based on the voting age population. Adherence to this limit would be purely a question of good faith. See [Washington] Evening Star, Oct. 27, 1971, § A, at 7, col. 2. Furthermore, a group of 60 large contributors (one member estimated their potential contributions were one-fourth of the total necessary to fund both presidential campaigns) recently convened in New York to consider the use of their financial power to encourage major candidates to work for campaign limitations and other political reforms. *Id.* at col. 1.

<sup>2</sup> 117 Cong. Rec. 1972 (1971) [remarks of Rep. Lee Hamilton (D., Ind.) introducing H.R. 550, 92d Cong., 1st Sess., a bill on campaign finance].

<sup>3</sup> See table below.

*Estimated spending by all candidates for political offices in the United States in presidential election years*

Year	Estimated spending (Millions)
1952	\$140
1956	155
1960	175
1964	200
1968	300
1972	400

The 1952-64 figures on estimated expenditures are from Alexander, *The Cost of Presidential Elections*, in *Practical Politics in the United States* 277 (C. Cotter ed. 1969). The 1968 figures are from Report of the Twentieth Century Fund Commission on Campaign Costs in the Electronic Era, *Voters' Time* 9 (1969), and the 1972 figures are from 117 Cong. Rec. 1972 (1971) [remarks of Rep. Lee Hamilton (D., Ind.)].

million in financing a primary and general election campaign,<sup>3</sup> about half of which will be used for television and radio advertising.<sup>4</sup>

It is not mere coincidence that the rapid increase in campaign expenditures occurred at the same time that television has become such an effective medium for the politician. The first year in which television assumed a major role in the campaign process was 1952. Of the \$19.6 million spent on the presidential campaign in that year, about one-fourth was for television and radio advertising.<sup>5</sup> By 1968, the total broadcast expenditures for the presidential primary and general election contests had reached \$28.5 million.<sup>6</sup> Of this figure, Robert Kennedy spent over \$1.5 million,<sup>7</sup> even though his campaign ran through only several of the major primaries. And of the two major candidates, Hubert H. Humphrey spent a total of \$6.1 million and Richard Nixon \$12.6 million for television and radio advertisements.<sup>8</sup> With the increased use of television by political candidates, the front porch campaign of a McKinley at Canton, or Wilson at Shadow Lawn, or a Harding at Marion has become a thing of the past. Today's candidate must concentrate on reaching large numbers of voters; and in the case of a presidential election, his campaign must cover an expansive geographic area. Quite naturally, television has become the most important medium available to the politician.

According to one leading communications expert, television is a medium for playing down the idea of issues and emphasizing the celebrity image that it has created.<sup>9</sup> Indeed, Marshall McLuhan has severely criticized campaign analysts like Theodore White for concentrating on the content of the Nixon-Kennedy debates, rather than the image each man was presenting to the American public.<sup>10</sup> But whether the candidate's image or his position on the campaign issues is more important in television political advertising is of little significance from a cost perspective; since the candidates themselves believe that their image is critical, they invariably hire advertising agencies and public relations experts to design and orchestrate their media campaigns.<sup>11</sup> Ever since the 1952 presidential election

<sup>3</sup> Time, Nov. 23, 1970, at 11. This figure may be somewhat inflated because of the unusually high expenses of \$3.5 million reported by Richard Ottinger in his unsuccessful Senate campaign in New York.

<sup>4</sup> See table below.

*Television and radio expenditures of selected senatorial candidates in the 1970 elections (both primary and general)*

Candidate	State	Party	Total expenditures
Grossman	Arizona	Democrat	\$11,228
Fannin	Arizona	Republican	47,479
Tunney	California	Democrat	574,226
Murphy	California	Republican	471,739
Chiles	Florida	Democrat	13,432
Cramer	Florida	Republican	224,964
Humphrey	Minnesota	Democrat	190,138
MacGregor	Minnesota	Republican	190,392
Ottinger	New York	Democrat	1,374,941
Goodell	New York	Republican	670,307
Buckley	New York	Conservative	618,671
Metzenbaum	Ohio	Democrat	507,671
Taft	Ohio	Republican	374,271
Gore	Tennessee	Democrat	214,671
Brock	Tennessee	Republican	200,471

NOTE.—Hearings on S. 1, S. 388, and S. 956 before the Subcommittee on Communications of the Senate Committee on Commerce, 92d Cong., 1st Sess., app. A, at 687-719 (1971) [hereinafter referred to as 1971 Hearings on S. 956].

<sup>5</sup> V. Key, Politics, Parties, and Pressure Groups 534, 539 (1958).

<sup>6</sup> H. Alexander, Financing the 1968 Election 5 (1971). This 1968 figure for broadcast expenditures at the presidential level is 2.2 times greater than comparable figures for 1964. *Id.*

<sup>7</sup> *Id.* at 56. Kennedy also spent approximately \$360,000 on newspaper advertising during these primaries.

<sup>8</sup> *Id.* at 92. These figures consist of expenditures for actual time and space on tele and radio, media production costs and advertising agency fees.

<sup>9</sup> See generally M. McLuhan, Understanding Media: The Extensions of Man (1964). For White's analysis of the Nixon-Kennedy debates, see T. The Making of the President 1960 279-95 (1961).

<sup>10</sup> Reports indicate that, in 1970, 26 candidates for senator or governor employed experts to manage their television advertising. Time, Nov. 16, 1970, at 14. For a discussion of the use of media advertising in a political campaign, see J. McGinnis, Selling of the President 1968 (1969).

When advertising agencies first came on the national political scene, the use of these experts to project the candidate's desired public image has become an indispensable function in an effective political campaign. The important point, however, is that television communication has provided political campaigns with a powerful resource, and the media expert has become an integral factor in its use. And, as the above statistics illustrate, the optimal utilization of this resource requires the outlay of vast sums of money.

### B. Financing the Political Campaign

American political parties have relied solely upon private contributions to finance candidates' campaigns. Given the large increase in campaign spending—precipitated for the most part by the rising use of mass media advertising—it is not hard to grasp the immense financial burden presently facing political parties, or for that matter, the individual candidate who wishes to campaign without strict allegiance to any party affiliation. Of necessity, political parties and candidates are constantly searching for new sources of funds.

It would seem that a continuing goal of both major political parties would be to increase their number of contributors. Succinctly stated, the more people who contribute, the more money the parties will have available to spend. For example, if everyone who voted in the 1968 presidential election had given one dollar, the campaigns of Nixon, Humphrey and Wallace could have been completely financed.<sup>12</sup> In practice, however, only a small percentage of voters contribute to a political campaign. In order to stimulate interest in the small contribution, Phillip L. Graham, publisher of the Washington Post, suggested the use of nonpartisan national advertising to urge political contributions.<sup>13</sup> The idea was adopted by the Advertising Council of the American Heritage Foundation which ran spot advertisements soliciting voters to contribute to the party of their choice.

Although such nonpartisan appeals have occasionally been successful on a small scale,<sup>14</sup> the usual result is abysmal failure, which has been explained by the lack of emotional bias which seems to motivate contributions in partisan fund raising campaigns.<sup>15</sup> Also, the small contributor can expect to exert little influence upon the politician, whereas the large contributor can expect to have a greater influence on and access to the politician's views and decisionmaking.<sup>16</sup> Thus, most attempts at expanding the base of political contributions have been relatively unsuccessful.

<sup>12</sup> Implicit in this premise is the assumption that the small contribution can be attracted with relatively small expense. This assumption may or may not be correct in a particular situation. If the contributions are solicited by mailings, for example, the costs of the operation may cancel out a major part of the contributions. Indeed, it has been estimated that a national committee spends \$250,000 on postage alone in a campaign year. V. Key, *supra* note 3, at 539.

<sup>13</sup> Address by Phillip L. Graham, University of Chicago, School of Business, June 1, 1965.  
<sup>14</sup> One successful bipartisan campaign for contributions has been carried on by the Aero-Jet General Corporation. Political contributions are withheld from employee's pay, at their request, and between 1958 and 1968 Aero-Jet has raised almost half a million dollars. Alexander, *The Cost of Presidential Elections*, in *Practical Politics in the United States* 284 (C. Cotter ed. 1969).

<sup>15</sup> In 1964, two significant attempts at bipartisan fund raising were made. The R. L. Polk & Co. plan sought individual contributions via letters to the general public signed by Dwight Eisenhower and Adlai Stevenson but the effort failed. The relative absence of emotional bias (which is presumably greater with partisan pleas), and the mere novelty of bipartisan pleas have been given as reasons for the failure of the Eisenhower-Stevenson letter. Haddon & Daly, *The "Eisenhower-Stevenson Appeal": An Adventure in Bipartisan Political Fund Raising*, in *Bipartisan Political Fund Raising: Two Experiments in 1964* (A. Heard, ed. 1966), cited in 2 *Studies in Money in Politics* 9-17 (H. Alexander, ed. 1968).

The second fund raising attempt was proposed by Neil Staebler, a former congressman from Michigan and adopted by the Michigan Center for Education in Politics. The campaign was to take the form of a charity drive with door-to-door solicitation. Saginaw, Michigan was selected as the test community because of its relative isolation and the balance between the two political parties. Although substantial support was obtained from community leaders the campaign was unsuccessful. The solicitors received only 173 contributions totaling \$410.86. Once again the failure was attributed to a fundamental need for partisanship in political appeals. Schutz, *Community Bipartisan Political Fund Raising: An Exercise in Politics*, in *Bipartisan Political Fund Raising: Two Experiments in 1964* (A. Heard ed. 1966), cited in 2 *Studies in Money in Politics* 19-20, 26-27 (H. Alexander, ed. 1968).

<sup>16</sup> The direct access of the large contributors to political candidates cannot be underestimated. Well-heeled Harold Perlman, for example, wrote Senator Edmund Muskie a letter stating that he was prepared to contribute \$100,000 to Muskie and suggesting a meeting later that week. When Perlman was informed by a Muskie aide that the Senator "could like to meet with him" Perlman simply replied, "I'm not surprised." The meeting took place the next day and when Muskie later disclosed his campaign contributors, Perlman was listed as a \$12,000 contributor. Pruden, *Why Fat Cats Make Good Political Gifts*, *National Observer*, April 8, 1973, at 1, col. 1.

In fact, from 1964 to 1968 the number of individual contributors declined by four million<sup>17</sup>—perhaps because the major political parties are unwilling, as much as unable, to generate a larger number of small contributions. Yet the almost exclusive reliance of the major political parties upon large contributions is not unjustified, for it is clearly easier and more efficient to obtain one 500 dollar contribution than 500 one dollar contributions.<sup>18</sup> Such a philosophy, however, raises serious problems that must be appreciated in any analysis of campaign finance.<sup>19</sup>

Large individual political contributions usually seem to be induced by several desires: the contributor seeks to influence the making or administration of public policy;<sup>20</sup> the contributor seeks to elect public officials with values and preferences which promise a sympathetic attitude toward his private interests;<sup>21</sup> or the contributor seeks an appointment to a political or public service job.<sup>22</sup> Although

<sup>17</sup> See table below.

Number of Contributors to Political Campaigns in Presidential Years

Year	Number of contributors <sup>a</sup>	(Millions)
1952	-----	3
1956	-----	8
1960	-----	10
1964	-----	12
1968	-----	8

H. Alexander, *supra* note 6, at 144. Alexander is unable to give any plausible explanation for the decline in individual contributors in 1968.

<sup>18</sup> Only three times since 1948 have the two major presidential candidates received more than half of their contributions in amounts of less than \$500.

Percent of political contributions of \$500 or more to presidential candidates

Year	Democrats	Republicans
1948	69	74
1952	63	68
1956	44	71
1960	70	58
1964	39	28
1968	61	47

Note.—The 1948-56 figures on political contributions are from A. Heard, *The Costs of Democracy* 41, 81 (1956); the 1960 figures are from H. Alexander, *Financing the 1964 election* 85 (1966), and the 1968 figures are from H. Alexander, *supra* note 6, at 163.

<sup>19</sup> Fear of the impact of the large contribution is perhaps the most important reason why campaign finance laws were enacted originally. Indeed, large contributions and their critics have been part of the American political scene for many years. In the presidential election of 1896, Republican entrepreneur Mark Hanna raised \$10-15 million from large corporations for the campaign of William McKinley. E. Sait, *American Parties and Elections* 644 (1942). In 1904 Democratic presidential candidate Alton B. Parker made a campaign issue out of the corporate financing of the Republican party. Lambert, *Corporate Political Spending and Campaign Finance*, 40 N.Y.U.L. Rev. 1035 (1955). Republican Theodore Roosevelt, elected over Parker in 1904, urged the enactment of campaign regulations in his yearly message to Congress. Roosevelt stated that "all contributions by corporations to any political committee or for any political purpose should be forbidden by law; directors should not be permitted to use stockholders' money for such purposes, and moreover, a prohibition of this kind would be, as far as it went, an effective method of stopping the evils aimed at in corrupt practices acts." 40 Cong. Rec. 96 (1905).

Professor Louise Overacker, one of the earliest scholars in the area of campaign finance, stated that the primary reason to fear the large contribution is that "[t]he American public has a general belief that contributions and expenditures are morally suspect and that unchecked election financing would lead to unfair pressure from monied interests." L. Overacker, *Money in Elections* 197, 376 (1932).

<sup>20</sup> F. Sorauf, *Political Parties and Politics* 321 (1968). Senator John J. McClellan (D, Ark.), in testimony before a congressional investigating committee in 1957, stated: "I don't think anybody that gave me a contribution ever felt he was buying my vote or anything like that, but he certainly felt that he had an entree to me to discuss things with me and I was under obligation at least to give him an audience when he desired it. . . . V. Key, *supra* note 6, at 568.

As early as 1924, politicians recognized the potential influence of large contributors. In that year Senator William Borah stated that, "So long as political parties seeking power or control of the government accept vast contributions from those who are interested in matters of legislation or administration, you will have sinister and corrupt and controlled government." E. Sait, *supra* note 19, at 647.

Senator Roman Hruska has stated that "conventions . . . are bought all the time by the business community—and everyone . . . knows it." *Newsweek*, March 20, 1972, at 33.

<sup>21</sup> F. Sorauf, *supra* note 20, at 321.

<sup>22</sup> This system of political appointments to large contributors has existed almost since the beginning of presidential elections. In 1968, Herbert Alexander studied 345 major Nixon appointees and found that 34 had contributed more than \$500 each to the 1968 campaign. In sum, these individuals contributed \$326,975, of which \$326,975 was given to the Republicans. H. Alexander, *supra* note 6, at 153-55.



Incidents establishing a conflict of interest between contributions and private interests are far too numerous to be effectively summarized, a few examples should illustrate the kind of favoritism that occurs. In 1970, two large shipping lines were convicted of violating the prohibition against corporate contributions to political campaigns;<sup>22</sup> both lines had recently been awarded multimillion dollar Government subsidies.<sup>23</sup> And in 1966, the Committee for Action, a group of construction and paving contractors who opposed certain legislation, gave \$14,000 to the campaign of Senator Robert Griffin, a leader in the opposition against such legislation.<sup>24</sup>

While such examples are obviously not conclusive proof that money in fact influences political decision-making, they aptly illustrate the potentially dangerous possibilities that exist when politicians are forced to rely on large private donations to finance their election campaigns. It would seem that the large contributor has at least a built-in lobby with which to influence elected officials, as well as a better opportunity to gain a political appointment. When the candidate must rely more or less exclusively on the large contribution, it is a logical extension of such reliance that he in some way repay his benefactor, or else lose his support in the next campaign. Given this connection, it is not hard to realize why the general public takes a moral dislike to large political contributions.

Senator Edward Kennedy has perhaps best stated the predicament of the political candidate:

Without a source of outside wealth, [the candidate] faces the Hobson's choice of either a shoestring election campaign or reliance on a few large contributors. If he takes the shoestring route, he faces the prospect of almost certain defeat. If he goes the route of the larger contributors, he inevitably creates the sort of ambiguous relationship in which he is obligated—or appears to be obligated—to his wealthy supporters.<sup>25</sup>

Indeed, the average political candidate, faced with escalating costs and unable to sufficiently tap the small contributor, turns out of necessity to the large contributor.

## II. THE REGULATION OF CAMPAIGN FINANCE

### A. The Power to Regulate

Constitutionally, the Congress is empowered with broad authority to enact legislation controlling the election of its members and to prescribe such rules as are necessary to secure the fair and honest conduct of those elections.<sup>26</sup> As a result, the courts in the past have not questioned Congress' power to set limitations on political contributions and expenditures, to require various financial dis-

<sup>22</sup> Originally enacted as the Federal Corrupt Practices Act of Feb. 28, 1925, ch. 368, tit. III, § 318, 43 Stat. 1074.

<sup>23</sup> Report of the Twentieth Century Fund Task Force on Financing Congressional Campaigns, *Electing Congress, the Financial Dilemma* 49 (1970) (hereinafter cited as *Twentieth Century Fund Report*). The two shipping lines were fined \$50,000 each, which seems a small price to pay considering that, combined, they received \$36.4 million in Government subsidies.

<sup>24</sup> D. Pearson & J. Anderson, *The Case Against Congress* 316 (1968). The most recent charge of conflict of interest concerning campaign contributions involved the case of International Telephone and Telegraph Corp. In 1969, Justice Department Antitrust Chief Richard McLaren filed three separate suits against ITT, challenging three corporate acquisitions as violating section 7 of the Clayton Antitrust Act (15 U.S.C. § 18 (1970)) which prohibits corporate mergers when they "substantially lessen competition or tend to create a monopoly." In 1971, a settlement was reached which allowed the acquisition of the Hartford Fire Insurance Co., the biggest corporate merger in United States history. At about the same time, it appears that ITT offered to underwrite up to \$400,000 of the costs of the 1972 Republican convention then scheduled for San Diego.

Allegations concerning a link between the antitrust settlement and the \$400,000 underwriting arose from a memorandum supposedly written by ITT lobbyist Dita Beard and disclosed to syndicated columnist Jack Anderson. After the disclosure, Democrats on the Senate Judiciary Committee turned the hearings on the nomination of Richard Kleindienst to Attorney General into a full scale investigation of the ITT controversy.

With the Republicans' charge that the Democrats were exploiting the hearings for political scandal, the ITT controversy caused a continual series of allegations and denials, charges and countercharges. But whether or not there was a link between the antitrust settlement and the convention pledge, the latter seems to be a clear violation of 18 U.S.C. § 610 (1970). See generally *Newsweek*, March 20, 1972, at 24.

<sup>25</sup> 117 Cong. Rec. 13297 (daily ed., Aug. 5, 1971).

<sup>26</sup> See U.S. Const. art. I § 4 which states that "[t]he Times, Places and Manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing senators." See also U.S. Const. art. I, § 5, which states that "[e]ach House shall be the judge of the elections, returns, and qualifications of its own members . . . ."

closures, and to prohibit contributions from certain sources.<sup>22</sup> In addition, Congress would clearly seem to have the power to regulate presidential elections.<sup>23</sup> nevertheless, the question remains whether there are legitimate governmental interests which justify the exercise of these powers.

Certainly the Congress has an interest in preserving its integrity as well as that of its individual members. And any reasonable regulation which attempts to reduce the possibility that congressmen may be influenced by potentially harmful special interests, should not be looked upon as an abuse of its power. As a corollary to this justification, Congress has a legitimate interest in requiring its members to make public disclosures as to their campaign finances. Furthermore, Congress has an interest in seeing that wealth does not become a precondition to election to its membership. While this list does not exhaust the possibilities, it should be sufficient to dispose of any questions as to the general propriety of Congress' activity in the area of political campaign finance regulation. Still, it must be remembered that Congress' regulatory power may possibly be abused—viz., where the putative campaign finance regulations are only of token substance and nothing more than a self-serving guise for no regulation at all. At that point, regulatory legislation would probably be constitutionally invalid.

#### *B. Legislation Prior to the Federal Election Campaign Act*

Federal campaign finance laws were embodied in sections 241-56 of title 2 of the *United States Code* (Federal Corrupt Practices Act), which was repealed by the Federal Election Campaign Act;<sup>24</sup> and in sections 591-612 of title 18 of the *United States Code* (Election and Political Activities Laws), which were amended and repealed in part by the Federal Election Campaign Act.<sup>25</sup> While examining the substantive provisions of these laws and their attendant problems, the reader should keep in mind several inquiries: (1) did these laws provide candidates with a reasonable means of financing increasing campaign costs; (2) or in the alternative, did they provide a realistic method of limiting the amount of expenditures; (3) did they protect the general public from the possible dangers of special interest influence on elected officials; (4) did they provide for adequate public disclosure; and (5) did they include appropriate mechanisms to enforce effectively the substantive provisions? Proceeding with such inquiries as a basis of analysis, it will become readily apparent in which areas comprehensive reform was needed.

In essence, the Federal Corrupt Practices Act,<sup>26</sup> promulgated in 1925, contained six major provisions: (1) every political committee was required to have a chairman and a treasurer and keep an account of all contributions and expenditures;<sup>27</sup> (2) political committees were required to file this accounting with the Secretary of the Senate or Clerk of the House of Representatives, 15 days before and 30 days after the election;<sup>28</sup> (3) the Secretary of the Senate and the Clerk of the House of Representatives were to hold these accounts open for inspection;<sup>29</sup> (4) Senate candidates were allowed to spend \$10,000 and House candidates \$2,500, or each could spend three times the number of voters in the last election, with a Senate candidate not to exceed \$25,000, and a House candidate \$5,000;<sup>30</sup> (5) a candidate could not directly or indirectly promise an appointment or use of influence in return for support in his candidacy;<sup>31</sup> and (6) violations of any of these provisions were punishable by a \$10,000 fine and two years imprisonment.<sup>32</sup> The

<sup>22</sup> See *United States v. Brewster's Ass'n.*, 330 F. 103 (D. Pa. 1916), which enumerates and discusses the various constitutional bases for the regulation of elections. See also *Burroughs & Cannon v. United States*, 290 U.S. 534 (1934), which held that Congress had the power to safeguard elections by the enactment of appropriate legislation, including the public disclosure of political contributions, as well as the names of contributors.

<sup>23</sup> The power to regulate presidential elections can be derived from several sources. Article II, section 1 of the Constitution, modified by the 12th amendment, clearly gives Congress the power to regulate the procedures for selection of president and vice president. Additionally, this power may be derived from Article I, Section 5, the commerce clause, and from section 5 of the 14th amendment which was used to uphold civil rights voting legislation in *Katzbach v. Morgan*, 384 U.S. 641 (1966).

<sup>24</sup> Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. IV, § 405.

<sup>25</sup> Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. II, § 301-07.

<sup>26</sup> Act of Feb. 28, 1925, 43 Stat. 1070.

<sup>27</sup> 2 U.S.C. § 242 (1970), repealed by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. IV, § 405.

<sup>28</sup> *Id.* § 246, repealed by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. IV, § 405.

<sup>29</sup> *Id.* § 247, repealed by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. IV, § 405.

<sup>30</sup> *Id.* § 248, repealed by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. IV, § 405.

<sup>31</sup> *Id.* § 249, repealed by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. IV, § 405. A similar provision remains embodied in 18 U.S.C. § 600 (1970), as amended by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. II, § 302.

<sup>32</sup> 2 U.S.C. § 233 (1970), repealed by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. IV, § 405.

Federal Corrupt Practices Act was oriented primarily towards a system of public financial disclosure, but it also attempted to limit the amount of money a congressional candidate could spend. Yet the maximum allowable expenditures were grossly unrealistic; and as we shall see later, they were easily circumvented.

The Election and Political Activities Laws were directed at the political contribution, and they contained, among other less salient provisions, three significant restrictions: (1) one who directly or indirectly contributed more than \$5,000 in one year to a candidate for federal office or to a national committee would be fined not more than \$5,000 or imprisoned not more than five years, or both;<sup>18</sup> (2) no political committee could receive contributions of more than \$3,000,000 or spent more than \$3,000,000 in one year;<sup>19</sup> and (3) national banks, corporations and labor unions were prohibited from contributing to any federal election.<sup>20</sup> Again, the maximum contribution ceiling of \$5,000 immediately strikes one as unrealistic in view of common knowledge regarding individual political contributions. But as one would expect, this provision, as well as the prohibition against contributions by corporations and labor unions, was quite easily circumvented and violations were rarely, if ever, prosecuted.

It should be noted that Congress has the inherent, constitutional power to investigate the election of its own members.<sup>21</sup> But effective congressional enforcement is virtually a dead issue.<sup>22</sup> Most members of Congress ignore the existence of campaign finance laws, let alone take action for failures to comply with them. Thus, the enforcement of these laws is ultimately vested with the Justice Department via the criminal sanctions attached to the violation of a provision. Once the Justice Department has knowledge of a violation, it has the discretion, as in any other criminal charge, to prosecute or not. But under the statutory scheme of the Federal Corrupt Practices Act and the Election and Political Activities Laws, there existed no formal procedure for reporting violations to the Justice Department. While the Federal Corrupt Practices Act did require candidates to file statements containing certain information relating to campaign contributions and expenditures with designated congressional officials, there was no statutory duty on such officials to report any violations to the Justice Department.<sup>23</sup>

Presumably, any person could complain to the Justice Department about a potential violation. But this did not facilitate effective enforcement because the minimal disclosure requirements reduced the amount of available information, and the Justice Department retained total discretion as to prosecution. Indeed, it was this discretion in a highly political area of the law which made the Justice Department ineffective in enforcing the campaign finance laws.<sup>24</sup>

<sup>18</sup> 18 U.S.C. § 606 (1970), as amended by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. II, § 201, 305.

<sup>19</sup> 14 § 606, repealed by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. II, § 204.

<sup>20</sup> 14 § 610, as amended by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. II, §§ 201, 305. Several prosecutions arose under this section which stated that

It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election of political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section. 14.

<sup>21</sup> U.S. Const. art. I, § 5.

<sup>22</sup> The last serious congressional challenge based on excessive and illegal campaign expenditures was in 1927 when the Reid Committee investigated the election of William B. Vane of Pennsylvania to the House of Representatives. Twentieth Century Fund Report, *supra* note 24, at 48.

In 1960, for example, 14 Senate and 65 House candidates filed no statements whatsoever—a clear violation. Yet the Secretary of the Senate and the Clerk of the House took no action. During that same year, the Secretary of the Senate told Senator Maurice Neuberger, who had filed an itemized statement of her expenses, that such detail was unnecessary. 1971 Hearings on S. 908, *supra* note 4 at 454 (statement of Philip M. Stern).

<sup>23</sup> 18 U.S.C. §§ 244-45 (1970), repealed by Act of Feb. 7, 1942, Pub. L. No. 92-225, tit. IV, § 401.

<sup>24</sup> In 1968 the Clerk of the House notified the Justice Department about reporting violations by a number of presidential committees. Although supplemental reports correcting the violations were filed late, the Justice Department took no action. Indeed, there has never been a prosecution under the Federal Corrupt Practices Act. Similarly, between 1925 and 1960, there have been only a few prosecutions under the Elections and Political Activities Laws (all of which centered on section 610, which prohibits contributions by corporations, bank and labor unions). In 1960, however, the Justice Department indicted 14 corporations for violations of section 610. All of the indictments arose out of an investigation by the Internal Revenue Service of Howland, Inc., a Los Angeles advertising firm which was a conduit for direct contributions by corporations.

The ease with which the law and its enforcement was circumvented can be shown by an incident which occurred in the mid-1960's. As indicated earlier, the Election and Political Activities Laws prohibited corporations from contributing to any federal election campaign.<sup>42</sup> Under an Internal Revenue Ruling, however, corporations advertising in the official program of a national political convention were allowed a deduction as an ordinary and necessary business expense.<sup>43</sup> The Government deemed any such advertising expenditure outside the prohibition against corporate contributions (and hence deductible) if: the amount of advertising was reasonable; the advertisement was directly related to the advertiser's business and was within the advertising value of the space required; and the proceeds from the advertisement were used only to pay for the convention.

In 1964, the Democrats took advantage of this revenue ruling in financing their \$2 million national convention in Atlantic City<sup>44</sup> by selling 96 full-page advertisements in their convention program at a price of \$15,000 per ad. The revenue from these advertisements (plus some support from other sources) produced a total in excess of the cost of the convention.<sup>45</sup> Republican Senator John J. Williams asked the Internal Revenue Service to investigate the disposition of this excess of funds, but he was told that the amounts spent by the corporations for advertisements were reasonable and that the Internal Revenue Service was not interested in how the excess was spent.<sup>46</sup> Williams then turned to the Justice Department, alleging a violation of the prohibition against corporate contributions, but was told that the "facts . . . do not demonstrate a violation."<sup>47</sup> Buoyed by the 1964 results, the Democrats published a booklet in late 1965, *Toward an Age of Greatness*, filled with more \$15,000 per page corporate advertisements. Even though the distortion between advertising billing price and circulation indicated a violation, and despite the statements of several Democratic congressmen that they would use the funds in their campaigns, the Justice Department took no action.<sup>48</sup>

Generally, then, the Justice Department is largely ineffective as the enforcement agency for campaign finance laws because of its close proximity to the electoral process. No administration is likely to vigorously enforce the campaign finance laws against its own party membership, nor will they enforce them against the other party for fear of reciprocal treatment when party control changes. In such a situation, where enforcement is almost nonexistent, the substantive provisions contained in any system of campaign finance regulation become meaningless. Clearly, any solution relying on governmental enforcement requires that the body charged with enforcement be politically autonomous, thereby removing the pressures which rendered past legislation impotent.<sup>49</sup>

<sup>42</sup> See Twentieth Century Fund Report, *supra* note 24, at 48-50. Thus, despite the recent flurry of prosecutions under section 610, the campaign finance laws are still virtually unenforced.

<sup>43</sup> Following both the 1960 and 1968 presidential elections, the president named his campaign manager as Attorney General. And during testimony before the subcommittee hearings on the Campaign Reform Bill, then Deputy Attorney General Richard Kleindienst admitted that even-handed enforcement of these laws is extremely difficult. *Hearings on S. 1181 Before the Subcommittee on Communications of the Sen. Comm. on Commerce, 92d Cong., 1st Sess. 522 (1971)* [hereinafter referred to as 1971 *Hearings on S. 1181*]. Kleindienst later blamed lack of enforcement on weakness in the present law, especially in the area of administrative provisions. *Hearings on S. 282 Before the Subcommittee on Privileges & Elections of the Sen. Comm. on Rules & Administration, 92d Cong., 1st Sess. 53 (1971)*.

<sup>44</sup> 18 U.S.C. § 610 (1970), as amended by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. II, §§ 201, 205.

<sup>45</sup> Rev. Rul. 343, 1956-2 Cum. Bull. 115.

<sup>46</sup> H. Alexander, *Financing the 1964 Elections* 40 (1966).

<sup>47</sup> *Id.* at 101.

<sup>48</sup> *Id.*

<sup>49</sup> Letter from Fred M. Vinson, Jr. (Assistant U.S. Attorney General) to Senator John J. Williams (D., Del.), 112 Cong. Rec. 1240 (1966).

<sup>49</sup> Neal Pierce found that *Toward an Age of Greatness* had approximately 250,000 readers. He reported that the cost per thousand distributions of these ads was \$60 as compared to \$6 for *Time* magazine. Pierce, *Financing Our Parties*, *The Reporter*, Feb. 10, 1966, at 29-32-34.

The \$700,000 received by the Democrats from *Toward an Age of Greatness* has been held in escrow until recently while it was decided what to do with the money. The lawyers advising the Democrats convinced them that the scheme was so dubious that the money should not be used to pay any partisan obligations. Instead, the money is to be used for nonpartisan voter education and registration. *NY Times*, April 13, 1972, at B3, col. 1. Still, the fact that this money is apparently going to nonpartisan purposes should not exonerate the corporate advertisers. Their intention at the time the money was paid to the Democrats is determinative of their guilt or innocence under federal law, and thus the original intention points strongly to partisan contributions.

<sup>50</sup> One suggestion is to charge the Comptroller General with the enforcement power. Because of his long-term appointment, he would be relatively isolated from partisan

Along with the inadequacy of enforcement mechanisms, the failure of previous legislation is also attributable to its poor drafting. Then President Johnson—certainly one who is knowledgeable about corruption in politics—stated that “current regulations of campaign finance are more loophole than law.”<sup>44</sup> And the formula for campaign spending which limited Senate candidates to \$25,000 and House candidates to \$5,000,<sup>45</sup> was written in 1925 when the front-porch campaign was still feasible and when radio was in its first decade. The spending limitation of \$5 million by political committees<sup>46</sup> was an arbitrary standard, which failed to take into account inflationary cost increases. No doubt, these spending limitations were completely unrealistic in the current era of cross-country, mass-media political campaigns.

Fortunately for the candidates, however, there were sufficient loopholes in the campaign finance laws to allow easy avoidance of these restrictions. For example, the definition of a political committee applied only to those committees which operated in two or more states,<sup>47</sup> so a candidate could set up committees on a one-state level and avoid the \$5,000,000 committee spending restriction. Individual contributors could also bypass the \$5,000 limit on contributions<sup>48</sup> by giving to several different committees supporting the same candidate or by making contributions through willing relatives. Further, if the contributor gave only to state-level committees which were exempted from reporting, he was able to hide all of his contributions.<sup>49</sup>

While all of this legal deception was taking place, the candidate, who was also required to file a report of his expenditures,<sup>50</sup> was presumed to be innocent of the activities of these state-level committees and groups which were operating in his behalf.<sup>51</sup> Regrettably, the candidates had no choice but to use such evasive schemes,

political pressure. Alexander, *Money, Politics and Public Reporting*, Studies in Money in Politics 60 (H. Alexander ed. 1962).

Alexander, Director of the Citizens' Research Foundation, has also recommended the creation of a Registry of Election Finance to be located in the Library of Congress. The Registry would set up a filing system and publish reports — although it would have no investigatory powers — and would be supervised by the Senate and House Committees on Rules and Administration. *Id.* at 63-65.

The most recent proposal arising from the Kennedy Commission study and the Twentieth Century Fund proposals, suggests the establishment of a bipartisan Federal Elections Commission which would set up rules and regulations and also have investigatory powers. See generally Twentieth Century Fund Report, *supra* note 24.

<sup>44</sup> 8 Jour. 227 (May 28, 1966) (message of President Johnson to Congress).

<sup>45</sup> 2 U.S.C. § 348 (1970), repealed by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. IV.

<sup>46</sup> 18 U.S.C. § 606 (1970), repealed by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. II, § 204.

<sup>47</sup> 18 U.S.C. § 591 (1970), as amended by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. II, § 201. The law stated that, “[t]he term ‘political committee’ includes any committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of candidates or presidential and vice presidential electors . . . in two or more States . . .” (emphasis added).

<sup>48</sup> The following figures illustrate how the prohibition in 18 U.S.C. § 606 (1970) against contributions in excess of \$5,000 was totally ineffective.

<sup>49</sup> Perhaps the most glaring example of the use of “dummy” state-level committees to hide the identity of contributors is provided by the 1970 Senate campaign of James Buckley (R., N.Y.). By the use of committees such as the League of Middle American Women and the Committee to Keep a Cop on the Beat, Buckley was able to hide the identity of persons contributing \$400,000 to his campaign. David R. Jones, the Buckley campaign manager, summed up the role of these dummy committees in his statement that “we made a game out of it.” *“False Front” Campaign Funds: How They Work*, U.S. News & World Rep., Jan. 11, 1971, at 87.

<sup>50</sup> 2 U.S.C. § 346 (1970), repealed by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. IV, § 405.

<sup>51</sup> Senator Gravel (D., Alaska) identified the truth when he said: “[W]e are technically violating the laws because we have knowledge of these great sums being spent on our behalf.” 1971 Hearings on S. 322, *supra* note 4, at 150.

Political contributions in excess of \$10,000 from 1962-68

Year	Number of individual contributors	Total contributions
1962	110	\$1,908,870
1966	141	2,303,000
1968	105	1,862,000
1964	120	2,151,000
1960	124	12,157,000

Note.—H. Alexander, *supra* note 4, at 167.

because the legislative restrictions and prohibitions governing campaign contributions were so patently unrealistic.

Another example of poor drafting is the prohibition against contributions by corporations and labor unions.<sup>42</sup> Although corporations were prohibited from making direct contributions, they were able to contribute indirectly to the candidate of their choice. Contributions took the form of individual solicitation of high corporate officials, partisan advertising and contributions to corporate political committees.<sup>43</sup> These business committees were supported by voluntary contributions from individuals and corporations. The funds were then channeled to selected candidates, thus allowing the corporation a convenient way to make a "legal" contribution.<sup>44</sup>

Moreover, labor (and presumably corporations) was permitted to endorse candidates in its publications and to use voluntary funds in partisan broadcasts to the public.<sup>45</sup> Still, as was true for corporations, the political action committee was used as the conduit for the bulk of labor's political contributions.<sup>46</sup> Thus, while millions of dollars were channeled indirectly to candidates by labor unions and corporations, only those who carelessly made direct contributions were ever penalized.

### III. THE ROAD TO REFORM

While numerous reform programs have been proposed by both legislators and private interests,<sup>47</sup> no constructive reform legislation had been enacted until

<sup>42</sup> 18 U.S.C. § 610 (1970), as amended by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. II, §§ 201, 205.

<sup>43</sup> Lambert, *supra* note 19, at 1039.

<sup>44</sup> In 1968 it was reported that more than \$2 million was spent by business or professional committees. H. Alexander, *supra* note 6, at 201. In addition to the large contributions from the political committees, Alexander reports that the officers and directors of the 25 largest defense and industrial companies contributed nearly \$1.5 million in 1968. *Id.* at 186.

<sup>45</sup> Such endorsements did not violate 18 U.S.C. § 610 (1970) as long as they were part of regular union activities and were based upon voluntary contributions. *United States v. Anchorage Central Labor Council*, 193 F. Supp. 504 (D. Alas. 1961); *United States v. C.I.O.*, 77 F. Supp. 355 (D.D.C. 1948).

<sup>46</sup> See table below.

*Labor national-level committees' gross disbursements*

Year	Reporting committees	Gross disbursements
1966	17	\$2,200,000
1960	21	2,300,000
1964	31	3,700,000
1968	37	7,100,000

Note.—H. Alexander, *supra* note 6, at 194.

<sup>47</sup> Shortly after he took office in 1961 President Kennedy appointed a Commission on Campaign Costs to examine the problem of campaign finance. The following year the commission recommended the following major actions, among others: (1) enactment of tax deductions for expenditures in connection with voluntary bipartisan political activities; (2) enactment of income tax credits and deductions for certain contributions to national parties and designated state committees; (3) establishment of a Registry of Election Finance to which all committee, parties or groups spending \$2,500 or more would be required to report; (4) repeal of 18 U.S.C. § 608 (1970), which places a ceiling on individual contributions; (5) repeal of 18 U.S.C. § 609 (1970), which places a ceiling on receipts and expenditures by political committees; (6) strict enforcement of all campaign finance statutes; (7) development of modern fund-raising practices; (8) encouragement of research techniques on campaign efficiency; (9) public subsidization of the presidential transition period; and (10) suspension of section 315 of the Federal Communications Act of 1934 [47 U.S.C. § 315(a) (1970)] which requires broadcast media to give free time equally to all candidates when one candidate receives free time. Alexander, *The Cost of Presidential Elections*, in *Practical Politics in the United States* 308-10 (C. Cottrill 1969).

Another reform proposal came in 1962 from prominent Washington, D.C. attorney, Philip Stern. Stern proposed a system partially based on funding of campaigns through the U.S. Treasury. In Presidential years, the two National Committees would receive 10 cents for each vote cast in the last election, with minor party candidates to be allotted one-fourth as much. Candidates for Congress would receive 20 cents for each vote cast in the last congressional election. Stern also suggested a tax credit and abolition of the ceiling on private contributions over \$100. In a rather novel approach to the partisan enforcement problem, Stern advocated the use of retired federal judges to administer the program. Stern, *A Cure for Political Fund-raising*, Harper's, May, 1962, at 59, 62-63.

In 1968, the Committee for Economic Development proposed a system of campaign finance reform. The committee recommended a tax credit of 50 percent of the contribution (with a credit limit of \$25 per taxpayer), stringent disclosure requirements, strict enforcement of 18 U.S.C. § 610 (1970), repeal of all ceilings on spending and contributions,

1971. Although suggested improvements and alternative proposals have been many, they have had some combination of several familiar concepts in common: (1) the expansion of the base of political contributions to provide an additional source of funds, thereby reducing the reliance on the large contribution; (2) the implementation of realistic ceilings on expenditures; (3) prohibitions on contributions from certain sources that present a danger of conflicts of interest; (4) more accurate public disclosure of the source and application of funds; and (5) the effective enforcement of substantive provisions.

Many reform plans have involved innovative schemes for implementing the above concepts. In recent years, for example, the idea of public subsidization of federal elections has been strongly advocated.<sup>6</sup> By many, the idea of public subsidization—with its central theme of expanding the base of contributions—has been deemed a cure-all for the ills presently affecting campaign finance. Differing motives may control a particular proponent of this kind of plan, i.e., the candidate seeks additional sources of money, and the reformer hopes to prevent the political pressure of potentially harmful special interests by decreasing the need to rely on the large contribution. But regardless of motive, the end result of public subsidization seems to be that the interests of both candidate and reformer will be satisfied. And if the subsidization provisions are joined with realistic spending restrictions, the politician's burden will be reduced to an even greater degree, entirely eliminating the reliance on the large contribution.

In its purest form, public subsidization would involve the federal funding of congressional and presidential election campaigns from the Government's general funds. The more popular forms of subsidization, however, are the tax credit and the tax deduction.<sup>7</sup> A tax credit would allow the voting taxpayer to take a certain amount of money from his final liability and earmark it for political contribution, while the tax deduction would allow the political contribution to be subtracted from taxable income. Several states have presently adopted some form of the tax credit or tax deduction for their respective state income taxes.<sup>8</sup>

On December 10, 1971 the President Election Campaign Fund Act<sup>9</sup>—signed into law as part of the Revenue Act of 1971—created a new plan of public subsidiza-

and repeal of the equal time provision in § 315(a) of the Federal Communications Act of 1934 (47 U.S.C. § 315(a) (70)). The Committee for Economic Development, *Financing a Better Election System* 21-25 (1968).

The most recent reform program has come from the Twentieth Century Fund, a nonprofit and nonpartisan organization endowed by Edward A. Filene. The Fund has recommended several reform proposals including: (1) full disclosure requiring an: committee filing or spending more than \$1,000 a year to report; (2) creation of a Federal Elections Commission to audit and publicize the financial reports; (3) repeal of all statutory spending limitations; (4) repeal of the limits on the size of individual contributions; (5) vigorous enforcement of section 610 of the Federal Corrupt Practices Act; and (6) centralization of finance under one official campaign committee. Twentieth Century Fund Report, *supra* note 20 at 16-21. While none of these programs has been translated into specific legislation, they have succeeded in stimulating public interest in the need for the reform of existing campaign finance laws and some of the proposals contained therein are incorporated in reform legislation yet to be discussed.

It is interesting to note that most of these reform programs have come from individuals or organizations isolated from political pressure. This further illustrates the belief that politicians are reluctant to police themselves. Congress, however, has at various times held hearings on campaign finance reform. See, e.g., *Hearings on S. 818 Before the Special Sub. Comm. to Investigate Political Activities, Lobbying and Campaign Contributions*, 86th Cong. 1st Sess. (1965); S. Rep. No. 176, 86th Cong. 1st Sess. (1967); S. Rep. No. 101, 90th Cong. 1st Sess. (1967); S. Rep. No. 47, 77th Cong. 1st Sess. (1941).

<sup>6</sup> See generally the programs referred to in note 67 *supra*.  
Puerto Rico is the only American jurisdiction where elections are partially subsidized by the public. In Puerto Rico each party may draw up to \$75,000 in a biennial year and \$150,000 in an election year. For a complete examination of the system of public subsidization in Puerto Rico see Wells, *Government Financing of Political Parties in Puerto Rico*, in *Studies in Money in Politics* 7 (H. Alexander ed. 1962).

<sup>7</sup> One plan of public subsidization created by Senator Russell Long (D. La.) did catch congressional fancy for a short time. In late 1966 Congress enacted the Presidential Election Campaign Fund Act, 31 U.S.C. § 3071 (1970). Under this plan each taxpayer could designate one dollar of his federal income tax to go into the fund. The money would have been split by the Democrats and Republicans. In 1967 however the Act was amended to provide that funds be disbursed only after adoption by law of guidelines governing distribution. Act of June 13, 1967 Pub. L. No. 90-26, 81 Stat. 54. See generally 93 Cong. Q. Almanac 246 (1967). Guidelines were never promulgated and the operative portions of the Act were recently repealed. Act of Dec. 10, 1971, Pub. L. No. 92-178, 85 Stat. 1111, § 202(b)(1) repealing Act of Nov. 13, 1966, Pub. L. No. 89-609, tit. III, § 103, 80 Stat. 805.

<sup>8</sup> See generally the proposals of the Kennedy Commission, the Committee for Economic Development, and Philip Stern in note 67 *supra*.

<sup>9</sup> See, e.g., Cal. Rev. & Tax Code § 17214 (West 1968) (which allows a tax deduction of up to \$100 a year for political contributions); Minn. Stat. Ann. § 206.21(3)(e)(1) (1961) (which allows a personal deduction for contributions up to \$100).

<sup>10</sup> Act of Dec. 10, 1971, Pub. L. No. 92-178, § 1000(13). The plan is similar to the earlier plan devised by Senator Long which passed Congress in 1966, but was repealed in 1967. See note 68 *supra*.

sation for presidential elections to take effect in 1973.<sup>22</sup> The new legislation, commonly known as Tax Checkoff, allows a taxpayer to designate one dollar of his yearly tax to be paid over to the Presidential Election Campaign Fund.<sup>23</sup> From this fund, eligible candidates<sup>24</sup> from "major parties"<sup>25</sup> can receive payments equal to 15 cents multiplied by the number of U.S. residents over 18 on June 1st of the year preceding a presidential election year.<sup>26</sup> A "minor party" candidate<sup>27</sup> would be entitled to receive a similar sum based on the number of votes received by the party's candidate in the last presidential election.<sup>28</sup> In addition, new political parties and other parties that failed to receive enough votes to qualify as a minor party are eligible for certain payments.<sup>29</sup>

Had Tax Checkoff been law in the 1968 election, and had the principal candidates opted to utilize public subsidization, the Democratic and Republican presidential candidates would have received \$20.4 million each, and George Wallace would have received \$6.3 million.<sup>30</sup>



**"THE DEMOCRATIC CONVENTION COMMITTEE FUND DRIVE WOULD LIKE \$500,000 AND A PARACHUTE"**

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<sup>22</sup> Act of Dec. 10, 1971, Pub. L. No. 92-178, tit. VIII, § 9018. The Tax Checkoff plan will not apply to the 1972 presidential election, primarily because of political facts surrounding its introduction and passage. The idea arose from a Democratic party meeting on July 14, 1971. See *The Plain Dealer* (Cleveland, Ohio), Dec. 10, 1971, at 14, col. 1. The Democrats were still deep in debt from the 1968 election and were expected to have a problem raising campaign funds; whereas the Republicans already had a campaign surplus and, with an incumbent in the White House, a substantial advantage in attracting additional contributions. See *The Washington Evening Star*, Dec. 8, 1971, at A-8, col. 1. The application of Tax Checkoff to the 1972 election would allow the Democrats to erase the Republican advantage.

The Democrats tied Tax Checkoff to the Revenue Act of 1971, feeling that the President would not veto such an integral part of his economic program. Nevertheless, repeated veto threats forced a compromise and an effective date of January 1, 1973. Even then, the applicability of Tax Checkoff to the 1976 election is far from certain: sources indicate that President Nixon will attempt a repeal of the provision. See *The Washington Post*, Dec. 8, 1971, at 1 col. 8.

It seems ironic, albeit not surprising, that legislation designed to remove presidential campaign finance from the arena of politics should be motivated by such partisan desires. It does, however, point to the desperate need of candidates and political parties for funds.

<sup>23</sup> Act of Dec. 10, 1971, Pub. L. No. 92-178, tit. VIII, § 9006.

<sup>24</sup> *Id.* § 9002(4).

<sup>25</sup> *Id.* § 9002(6) (which defines a "major party" as "a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office").

<sup>26</sup> *Id.* § 9004(a)(1).

<sup>27</sup> *Id.* § 9002(7) (which defines a "minor party" as "a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office").

<sup>28</sup> *Id.* § 9004(a)(2).

<sup>29</sup> *Id.* § 9004(a)(3).

<sup>30</sup> These figures are taken from an article on the Tax Checkoff plan in *The Plain Dealer* (Cleveland, Ohio), Nov. 23, 1971, at 8, col. 1. Under section 9006(a), the Secretary of



In its present form, Tax Checkoff contains a number of problems which will limit its effectiveness as a comprehensive plan of campaign finance reform: (1) it is limited to the presidential election; (2) it is applicable only to expenditures incurred within a period commencing on the date a major party nominates its candidate at its national convention and ending 30 days after the election," and thus contains no restrictions on the amount of money a candidate may spend in attaining the nomination; and (3) its funding base, the designation of one dollar of yearly tax, is completely optional with the taxpayer.

The plan also will probably encourage splinter parties and an increase in the number of presidential candidates." Whether this is a desired effect depends on one's political philosophy, but Tax Checkoff certainly provides a better opportunity for a candidate with limited financial support to campaign for the presidency. In addition, because Tax Checkoff provides the candidate with a new source of funds, it might reduce his reliance on the large contribution. But such an effect is less than certain because the candidate or party must still be able to absorb all the campaign costs incurred prior to the commencement of the period when he begins to benefit from Tax Checkoff.

If a candidate is to benefit under the plan, he and his authorized committee must certify to the Comptroller General that they will not incur qualified campaign expenses in excess of the aggregate payments he is entitled to, and that no contribution to defray qualified expenses will be accepted, unless the Checkoff fund is insufficient to cover them." This provision thus places a ceiling on campaign expenditures during the period when the candidate receives the Tax Checkoff funds—a period when a candidate's media expenses are at their peak. It is unlikely, however, that this limitation would significantly impede a candidate since it is at least high enough to permit continued spending at present levels.

Tax Checkoff also provides for a comprehensive system of financial disclosure administered by the Comptroller General's office. The eligible candidates must submit to the Comptroller General periodic, detailed statements as to the qualified expenses incurred by them and their authorized committees." At a reasonable time after the election, the Comptroller General must submit a full report to the Senate and House of Representatives." In addition, he is authorized to prescribe such rules and regulations, to conduct such examinations and audits, to conduct such investigations, and to require the keeping and submission of such books, records and information as are necessary to carry out his function." In vesting the Comptroller General with the administration of the plan's substantive provisions, Congress has alleviated many of the problems associated with the self-policing mechanisms of prior legislation.

Another major attribute of the plan lies in its enforcement mechanism, especially with respect to those who have standing to allege a violation. The Comptroller General, the national committee of any political party, and individuals eligible to vote in presidential elections are authorized to institute actions in the district courts to implement any provision of the law." This broad grant of standing goes a long way towards creating effective enforcement and obviating the problems of partisanship which existed under previous legislation that authorized

the Treasury to establish a separate account for each political party and make payments into these accounts after certification by the Comptroller General under section 9003(a). Prior to certification, the Comptroller General must examine the records furnished by the candidates who are seeking Tax Checkoff funds. In addition after each presidential election, the Comptroller General is required by section 9007 to make a thorough audit of each candidate to ensure that the party: (1) did not incur expenses in excess of the allotment allowed by section 9004; (2) did not accept contributions in addition to Tax Checkoff; and (3) did not use the payments for other than campaign expenses. If violations are found the Comptroller General must demand appropriate repayments. Act of Dec. 10, 1971, Pub. L. No. 92-178, tit. VIII § 9007(b).

§ 9003(12)  
 • A small party could not receive payments from the fund and then not use the money for campaign expenses, because the Comptroller General must audit the expenses after each presidential election and demand repayment if the money is not used for campaign expenses. Id. § 9007(a)-(b).  
 • Id. § 9003(b)-(c).  
 • Id. § 9004.  
 • Id. § 9005(a).  
 • Id. § 9005(b).  
 • Id. § 9011(b)(1) (which states: "[t]he Comptroller General, the national committee of any political party, and individuals eligible to vote for President are authorized to institute such actions, including actions for declaratory judgment or injunctive relief, as may be appropriate to implement or construe any provision of this chapter.") It appears from this that any individual bringing suit would have available a broad scope of remedies, possibly including damages or even an injunction to prevent an elected official from taking office.

only the Justice Department to bring suit. Regarding any certification, determination or other action by the Comptroller General, any interested person has the right to the judicial review of such action in the Court of Appeals for the District of Columbia.<sup>12</sup> The act also provides criminal sanctions for violations of various substantive provisions.<sup>13</sup> The important point, however, is that the enforcement provisions are no longer mere placebo.

The Tax Checkoff plan is undoubtedly a major step towards reforming the entire area of campaign finance legislation. Nonetheless, it was never intended to be a comprehensive overhaul of existing legislation, and in fact, most likely owes its existence to the need of the Democrats to work out some means to facilitate their campaign financing and their tactical ploy of tying the proposal to legislation which the President would not veto.<sup>14</sup>

Almost buried by the controversy over Tax Checkoff is a significant improvement in campaign finance legislation. Title VIII of the Revenue Act of 1971 provides for limited tax credits and deductions. An individual taxpayer is allowed a credit against his tax of up to \$12.50<sup>15</sup> or, in the alternative, a deduction of up to \$50.00.<sup>16</sup> These provisions, applicable to the 1972 elections,<sup>17</sup> have the potential to expand the contribution base by providing an incentive to the small contributor. In practice, however, the effect of these tax incentives will be minimal unless they receive more media coverage, because the taxpayer will be unaware of the various options available to him.

#### IV. THE CAMPAIGN ACT OF 1971

Finally, after considerable legislative manipulation, President Nixon signed into law the Federal Election Campaign Act of 1971,<sup>18</sup> which—in addition to

<sup>12</sup> *Id.* § 9011(a).

<sup>13</sup> *Id.* § 9012.

<sup>14</sup> See note 72 *supra*.

<sup>15</sup> Act of Dec. 10, 1971, Pub. L. No. 92-175, tit. VII, § 41(a), (b) (1).

<sup>16</sup> *Id.* § 218.

<sup>17</sup> *Id.* § 708.

<sup>18</sup> Act of Feb. 7, 1972, Pub. L. No. 92-225. The legislative path of the Federal Election Campaign Act of 1971 took well over a year from introduction to enactment. The actual beginning of Senate Bill 382 stems from the veto of Senate Bill 3637 by President Nixon on October 12, 1970, 6 Weekly Comp. Pres. Documents 1367. Senate Bill 3637 permanently suspended the equal time requirement of section 315(a) of the Federal Communications Act of 1934 (47 U.S.C. § 315(a) (1970)) (originally enacted as Act of June 19, 1934, ch. 632, tit. III, § 315, 48 Stat. 1088) which, for presidential campaigns required broadcast stations to charge candidates at their own established lowest unit rate for comparable commercial time; and placed a ceiling on the amount of money candidates for federal elective office, the officers of governor or lieutenant governor, or anyone on their behalf could spend for radio and television time. President Nixon vetoed this bill, calling for more comprehensive reform in the area of campaign finance, rather than a bill dealing only with media advertising.

Early in January 1971, several campaign reform bills were introduced in the Senate. During the March hearings, the major controversies concerned the possibility of repealing the equal time requirement of the Federal Communications Act of 1934, the need for a spending limitation, and the proper mechanism for public disclosure. On August 5, 1971, the Senate passed Senate Bill 382 by a vote of 88 to 2 which repealed the equal time requirement with respect to presidential and vice presidential candidates in both primary and general elections, and set a spending limitation of five cents times the number of potential votes for broadcast advertising and an equal amount for nonbroadcast advertising. Senate Bill 382 also delegated enforcement of the disclosure requirements to an independent Federal Elections Commission composed of members appointed by the President, with the advice and consent of the Senate for relatively long terms.

Just as the House was to take up this campaign reform bill, the bitter partisan controversy surrounding Tax Checkoff forced its postponement, thus precluding enactment until December when the House passed a bill significantly different from the Senate-passed bill. The House-passed bill failed to include any repeal of the equal time requirement and divided the disclosure duties with the Clerk of the House, the Secretary of the Senate, and the Comptroller General rather than the Federal Elections Commission. In the Senate-House conference, the Senate receded on both of these major provisions, indicating that the Federal Election Campaign Act would be substantially weaker than the Senate-passed bill.

The major reason for the failure to repeal section 315(a) was that President Nixon threatened a veto unless the repeal was extended to all candidates for federal office, rather than just President and Vice President. Congress, probably unwilling to give free time to their lesser known opponents, decided that the best course was to leave section 315(a) intact.

The Federal Elections Commission, originally a component of the administration, supported Scott Mathias' bill, was included by the Senate despite Democratic opposition. An administration support for the independent commission waned, however, the supervisory function was embodied in more traditional organs: the Secretary of the Senate, the Clerk of the House and the Comptroller General.

Finally, on February 7, 1972, President Nixon signed the Federal Election Campaign Act of 1971 (Pub. L. No. 92-225) into law. The law took effect on April 7, 1972, thus exempting the New Hampshire, Florida, Illinois and Wisconsin primaries from its provisions.

establishing new substantive provisions—repealed the Federal Corrupt Practices Act and repealed or amended certain sections of the Election and Political Activities Laws. The act is unique in that it is the first piece of legislation attempting a comprehensive overhaul of the campaign finance laws. While it contains numerous provisions, the Campaign Act is primarily directed at campaign expenditures, especially those involving the various communications media.<sup>29</sup> The act is structured in four parts: Title I requires that broadcast stations give reduced rates to legally qualified candidates and establishes an aggregate ceiling on a candidate's expenditures; Title II is a series of amendments to the Election and Political Activities Laws, including limitations on expenditures from the candidates' personal funds, a repeal of the maximum contribution and expenditure restrictions, and a strengthening of the prohibition on contributions by national banks, corporations and labor unions; Title III is original legislation establishing a detailed system of disclosure of federal campaign funds; and Title IV is basically a repeal of the Federal Corrupt Practices Act.<sup>30</sup>

#### A. Title I

Title I of the Campaign Act strives to halt the spiraling cost of political campaigning by requiring broadcast stations, during the 45 days preceding the primary and the 60 days preceding the general election, to charge the lowest unit rate that the station would otherwise charge for the same class and time of advertising.<sup>31</sup> But this will not really diminish broadcast expenditures as much as anticipated because most stations already give discounts to political candidates.<sup>32</sup>

Originally, the Campaign Act was drafted to include, as well, an amendment to the Communications Act of 1934 that would repeal the equal time provision<sup>33</sup>—which requires that, if a broadcast station gives free time to one candidate, it must give an equal amount of free time to each of the other candidates, including those of minor parties.<sup>34</sup> The purpose of the amendment, in addition to aiding the reduction of broadcasting expenditures, was to give candidates for public office greater access to the media so that they could better explain their stand on the issues and more completely inform the voters.<sup>35</sup>

The repeal of the equal time provision most likely would have achieved these results, and Congress apparently missed an opportunity to significantly lower political broadcast expenditures when it dropped the repeal amendment from the final version of the act.<sup>36</sup> While Congress' failure to act is primarily attributable

<sup>29</sup> Communications media include "broadcasting stations, newspapers, magazines, outdoor advertising facilities and telephones." Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. I, § 102(1).

<sup>30</sup> 2 U.S.C. §§ 241-56 (1970), repealed by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. IV, § 406.

<sup>31</sup> Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. I, § 103. This is an amendment to the Communications Act of 1934 [47 U.S.C. § 315(b) (1970)] which stated that "the charges made for the use of any broadcast station for any of the purposes set forth in section 315 may not exceed the charges made for comparable use of the station for other purposes." Under section 315(b), political candidates were often charged more for the same amount of space or time than were major advertisers. Thus, the amendment ensures that the lowest advertising rate will always be charged.

<sup>32</sup> CBS network stations already charge the lowest net rate. 1971 *Hearings on S. 383*, *supra* note 4, at 328 (letter from Frank Stanton, President of CBS, to Senator Hugh Scott, Feb. 12, 1971). ABC gives a 33 percent discount. *Id.* at 329 (letter from Everett Erlich of ABC to Senator Scott, Feb. 12, 1971). NBC gives a 50 percent discount. *Id.* at 408 (testimony of Julian Goodman, President of NBC).

<sup>33</sup> These discounts also exist on a non-network basis. A survey of stations in the Cleveland area (compiled by the author from conversations with advertising managers at Cleveland radio stations WKYC, WJW and WEWS) found discounts ranging from 25 to 50 percent for political candidates.

<sup>34</sup> 47 U.S.C. § 315(a) (1970).

<sup>35</sup> S. 382, 92d Cong., 1st Sess. § 101(a)(1) (1971).

<sup>36</sup> Section 315(a) of the Federal Communications Act of 1934—the "equal time" provision—was suspended in 1960 for presidential candidates to allow the Nixon-Kennedy debates. S.J. Res. 207, 86th Cong., 2d Sess., 106 Cong. Rec. 17739 (1960). Without such

<sup>37</sup> suspension the networks would have had to give all the minor party candidates equal time. As the table below illustrates, little free time is presently being offered to political candidates.

Year	Free Time to All Candidates on TV	Hours and Minutes
1956	-----	29:38
1960	-----	39:22
1964	-----	4:28
1968	-----	3:01

R. Alexander, *supra* note 6, at 102.

<sup>38</sup> If the equal time provision had been repealed, CBS would have offered 8 hours of free network time to each party. NBC pledged an additional 4 hours to each party. 1971 *Hearings on S. 383*, *supra* note 4, at 393, 408.

In political exigencies, it would also seem that a repeal of the equal time provision would have conflicted with the policy and rationale behind the prohibition against political contributions by corporations. A radio or television station permitted to give unrestricted amounts of free time to candidates of their choice, without reciprocal treatment to others, would be no different than the corporate body of that station directly contributing cash to the candidate.

The spending limitations imposed by Title I provide that a candidate may spend for the use of communications media the greater of: (1) \$50,000; or (2) 10 cents multiplied by the voting age population<sup>122</sup> of the electorate.<sup>123</sup> And the candidate is permitted to spend up to 60 percent of this amount on the broadcast media.<sup>124</sup> In order to take account of inflationary cost increases, the act provides for periodic adjustments to the spending formula based on the Consumer Price Index.<sup>125</sup> Because of the broad definition of the term "communications media,"<sup>126</sup> these limitations cover all the important kinds of campaign media advertising.

Critical to an understanding of the mechanics of the spending limitations, is the separation of primary and general election contests. Each primary, general, special or run-off election is treated as a separate election and has a separate expenditure limitation applicable to it. And for all candidates other than presidential, the limitations applicable to the use of the communications media are the same for both a primary and a general election;<sup>127</sup> i.e., 10 cents times the number of voters or \$50,000, whichever is greater. Thus, a typical candidate for the Senate would be permitted to spend a total of 20 cents per eligible voter, or \$100,000.<sup>128</sup>

In the case of a presidential candidate, the separate election concept is equally applicable, but the aggregate amount of his spending limitation is allocated on a state-by-state basis. A presidential candidate may spend, for use of the communications media in a state primary, an amount equal to that available to a Senate candidate from that state.<sup>129</sup> And for the general presidential election, the limitations on the use of the communication media in any one State are likewise based upon the eligible electorate in that state.<sup>130</sup>

The concept of an aggregate expenditure ceiling is not new, as evidenced by the discussion of the Federal Corrupt Practices Act. But the crucial questions regarding any such scheme still remain: is a ceiling advisable at all; and if so, are the given limitations workable within the realities of campaign finance. In his testimony before the Communications Subcommittee holding hearings on the act, Herbert Alexander, a leading expert on campaign finance, stated that an aggregate ceiling would favor the incumbent candidate while the absence of a ceiling would conversely permit the high spending usually necessary to challenge an incumbent.<sup>131</sup> Rather than a ceiling, Alexander favored the idea of a publicly subsidized minimum amount sufficient to guarantee a candidate adequate exposure to the public.<sup>132</sup> But Alexander's criticism may be less pertinent than it appears at first blush; even with no effective spending limitations, there has been a very high rate of incumbent reelection.<sup>133</sup> Consequently, the imposition of a ceiling should not portend any significant increase in that rate.

<sup>122</sup> Voting age population is defined as the resident population 18 years and older. Act of Feb. 7, 1972, Pub. L. No. 92-235, tit. I, § 102(5).

<sup>123</sup> Id. § 104(a)(1)(A). Under section 104(a)(1)(C)(5), during the first week of January in each year, the Secretary of Commerce "shall certify to the Comptroller General and publish in the Federal Register an estimate of the voting age population of each state and congressional district for the last calendar year ending before the date of certification."

<sup>124</sup> Id. § 104(a)(1)(B). Under section 104 of the Senate bill, the candidate, at his discretion, could spend between 20 and 70 percent of his total allocation on broadcast advertising.

<sup>125</sup> Id. § 104(a)(4). The mechanism for adjustment of the spending limitation formula is detailed in section 104(a)(4)(B): "At the beginning of each calendar year . . . the Secretary of Labor shall certify to the Comptroller General and publish in the Federal Register the per centum difference between the price index for the 12 months preceding the beginning of each calendar year and the price index for the base period." Then the amounts determined under the spending limitation formula will be increased by the per centum difference.

<sup>126</sup> See note 95 *supra* & accompanying text.

<sup>127</sup> Act of Feb. 7, 1972, Pub. L. No. 92-235, tit. I, § 104(a)(2).

<sup>128</sup> The spending limitations for each election must be accounted separately. Thus, a candidate could not "save up" from the primary and then spend more than the \$50,000 or 10 cents per voter limitation in the general election.

<sup>129</sup> Id. § 104(a)(3).

<sup>130</sup> Id. § 104(a).

<sup>131</sup> 1971 Hearings on S. 383, *supra* note 4, at 644-45 (testimony of Herbert Alexander).

<sup>132</sup> Id.

<sup>133</sup> From 1954 to 1968, 85 percent of all Senators who ran for reelection won, and 93 percent of all House members who ran for reelection won. Twentieth Century Fund Report, *supra* note 34, at 3.

Overall, the most persuasive argument for a ceiling is the continuing upward spiral in the cost of running for office. The problem, then, is to create a ceiling which curbs rising costs but is high enough to permit the challenger to adequately present himself to the public. The major difficulty in ascertaining whether spending limitations are realistic is the unavailability of appropriate statistics concerning past expenditures. One recent survey shows that 70 percent of the U.S. Senators spent over \$100,000 on their last campaigns, 40 percent spent over \$200,000,<sup>126</sup> and three of every 10 members of the House spent over \$60,000.<sup>127</sup> But these figures are difficult to assess in terms of the Campaign Finance Act because they reflect total campaign expenditures—including salary and travel expenses and public opinion polls—while the act regulates only expenses for the communications media.

Although few statistics are available to provide an overall analysis of the Campaign Act's per-vote formula for computing the ceiling, a partial study has been made which compared 1970 broadcast advertising expenditures by Senate candidates with the highest possible expenditure for broadcast advertising available to the candidate under the Campaign Act.<sup>128</sup> The comparison indicated that the typical candidate must decrease his spending for broadcast advertising in order to comply with the new law, in direct contrast to the upward spiral of campaign spending that currently exists.<sup>129</sup>

The present broadcast spending limitation is certainly more reasonable than that provided under the defunct Federal Corrupt Practices Act.<sup>130</sup> Still, because candidates will be required to adjust their campaign expenditures downward, emphasis must once again be placed on the need for a workable system of disclosure and enforcement to prohibit a candidate from violating the new law.

### B. Title II

The amendments to the Election and Political Activities Laws constituting Title II of the Campaign Act contain several substantial revisions of campaign finance laws, including: (1) a repeal of the limitation on the amount of individual contributions; (2) a limitation of the amount of expenditures a candidate may make from his personal funds; (3) a redefining of "political committee" to do away with the requirement of operating in two or more states; (4) an amendment of the prohibition against contributions from corporations and labor unions; (5) a redefining of "election" to include primaries; and (6) an expansion of the definition of political contribution and expenditure.

*Comparison between actual amounts spent on broadcast media by senatorial candidates in the 1970 general election and the permissible broadcast spending the limitation applicable to senatorial candidates under Public Law No. 92-225.*

State	Individual candidate 1970 expenses	Public Law No. 92-225	Change difference
Alaska.....	\$34,008	\$31,290	-\$2,716
Arizona.....	55,388	63,988	+\$8,600
Hawaii.....	64,964	31,290	-\$33,674
Indiana.....	358,012	181,847	-\$176,165
Missouri.....	281,518	168,027	-\$113,491
Nevada.....	73,788	31,290	-\$42,498
New Jersey.....	391,455	261,689	-\$129,766
New Mexico.....	35,451	31,290	-\$4,161
North Dakota.....	71,491	31,290	-\$40,201
Utah.....	115,812	31,290	-\$84,522
Vermont.....	69,688	31,290	-\$38,398
Wyoming.....	47,506	31,290	-\$16,216

*Note.*—Act of Feb. 7, 1972, Public Law No. 92-225 (table A, Legislative History), U.S. Code Cong. & Ad. News 88 (1972). The expenditures for candidates under Public Law No. 92-225 were determined by use of the 60 percent allotment for broadcast advertising as allowed under section 104(a)(1)(B) and includes an additional 4.3 percent to reflect inflationary increases.

<sup>126</sup> The statistics quoted are cited in *Hearings on S. 3876 before the Committee on Commerce, 91st Cong., 1st Sess., ser. 91-29, at 51 (1971).*

<sup>127</sup> *Id.*

<sup>128</sup> 1971 *Hearings on S. 382, supra* note 4, at 612 (testimony of Professor David Adamany of Wesleyan University).

<sup>129</sup> See note 2 *supra* & accompanying text.

<sup>130</sup> See note 36 *supra* & accompanying text.

The most significant of these revisions, in terms of the earlier discussion concerning the problems associated with the large individual contribution, is the repeal of the \$5,000 limitation for anyone making a political contribution.<sup>1</sup> It would seem that this change directly contradicts the rationale behind the reform concept of protecting against the dangers of the large individual contribution. In committee, the following reasons were put forth to justify the repeal of the old limitation: (1) such a limitation is probably unconstitutional; (2) it is completely unworkable, and (3) disclosure makes such limitations unnecessary.<sup>2</sup> Although the unconstitutionality argument may be well taken,<sup>3</sup> the most convincing rationale for repeal of any contribution limitation is the presence of the full disclosure requirement (the specifics of which will be discussed shortly). The requirement that campaign contributions be fully disclosed, make the politician readily subject to any accurate charges of misconduct or conflict of interest, thereby precluding the need to continue restrictions on personal contributions. Moreover, in the context of the entire scheme of campaign finance legislation, if means are provided for obtaining funds which would reduce the reliance on the large contribution, a statutory limitation on personal contributions becomes much less relevant.

One kind of quasi-contribution limitation was included, however. Perhaps with a view towards preventing the situation in which the rich candidate is in a better position to gain access to an elected office, Congress set limitations on the expenditures a candidate may make from his personal funds (including those of his immediate family): \$50,000 in the case of a candidate for President or Vice-President; \$35,000 for a Senate candidate; and \$25,000 for a House candidate.<sup>4</sup>

Other amendments in Title II are directed at closing the obvious loopholes existing in the old laws. No longer is a candidate able to decentralize his campaign finances by using state-level committees. Under the Campaign Act, the old definition of "political committee" (requiring operation in two or more states) is replaced by "any individual, committee, association, or organization which

<sup>1</sup> Act of Feb. 7, 1972, Pub. L. No. 92-225 tit. II § 203, amending 18 U.S.C. § 601 (1970).

<sup>2</sup> H. Rep. No. 92-220 924 Cong. 1st Sess. 131 (1971).

<sup>3</sup> For a number of years, various commentators have argued that restrictions on the amount of spending in a political campaign and requirements of public disclosure of contributions and contributors were violations of the first amendment. A recent discussion of this issue comes from Martin H. Redish, *Campaign Spending Limits and the First Amendment*, 44 N.Y.U. L. Rev. 900 (1971).

Redish uses *New York Times v. Sullivan*, 376 U.S. 254 (1964) in conjunction with *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1964) and *Mills v. Alabama*, 384 U.S. 214 (1966) to support his theory that the "first amendment" readers suspect and regulations which have the effect of reducing total amount of expression on public questions. Redish says at 910. But despite his theory Redish admits that the Supreme Court if faced with the issue directly might feel that neutralization of the upward spiral of campaign spending would justify such a limited infringement upon free expression of information and opinion—particularly in view of the relatively high ceiling imposed by the new law.

In the area of public disclosure, Redish links *United States v. Rumley*, 245 U.S. 41 (1917); *NAACP v. Alabama*, 357 U.S. 449 (1958); *Shelton v. Tucker*, 364 U.S. 479 (1960); and *Talley v. California*, 362 U.S. 60 (1960) (cases protecting the privacy of membership lists and organization affiliations) to develop a first amendment right of nonmembership which would protect the candidate and political parties from mandatory disclosure. While the validity of such a first amendment right is questionable, there are strong government interests in requiring full disclosure of campaign contributions and contributors. Foremost among these is that full disclosure provides the electorate a measure of protection from political favoritism—both legal and illegal—toward campaign benefactors.

Almost any campaign finance regulation is likely to have some effect on first amendment rights. In the area of spending limitations it would seem that infringement on the first amendment rights would be minimal if a candidate was forced by the spending limitation to show only 75 television commercials instead of the 100 planned. The compelling governmental interest in giving candidates virtual spending equality and in requiring disclosure to prevent possible corruption seems to outweigh the mild disturbance of first amendment rights.

Perhaps the most interesting comment upon these first amendment questions is the total absence of pertinent case law. Of course this again attests to the fact that the Federal Corrupt Practices Act was virtually unenforced.

<sup>4</sup> Act of Feb. 7, 1972 Pub. L. No. 92-225 tit. II § 203. Realistically, however it seems possible to avoid this restriction by using various relatives, friends and other candidates through which personal funds could be funneled into the campaign. A recent example of just such contribution practices can be seen in the disclosure of campaign contributions and contributors by several Democratic presidential candidates before the effective date of Pub. L. No. 92-225. The sums attributed to numerous contributors are in excess of the \$5,000 limitation which existed under 18 U.S.C. § 608 (1970) but the contributors simply spread the contribution among relatives and friends or gave the contributions to various decentralized committees. Although the latter loophole has been eliminated, the former still remains available to the candidate seeking to avoid the personal funds limitation.

accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding \$1,000."<sup>124</sup> The ultimate effect of this change will be to centralize a candidate's finances under one major committee, which will incidentally lessen the burden imposed by the reporting provisions.

Unfortunately, Congress failed to close the loophole which permits corporations and labor unions to contribute millions of dollars through political action committees. Indeed, the amendment to the general prohibition against corporate and union contributions actually serves to sanction the committee device by specifically permitting it.<sup>125</sup> This is particularly disconcerting since the amendment also broadens the phrase "contribution or expenditure" as used in this prohibition,<sup>126</sup> and because, without the explicit congressional approval of the political action committee contribution, the courts might have been persuaded to close this blatant loophole.

Title II further provides a criminal sanction for any direct or indirect promise of employment or other benefit by a candidate to a contributor.<sup>127</sup> But this prohibition, which is a reenactment of a section of the Federal Corrupt Practices Act, is most likely unenforceable.<sup>128</sup> Aside from the obvious evidentiary problems, the idea of what would constitute an indirect promise is extremely vague. Other revisions which merit mention are: the change in the term "election," as used in the Election and Political Activities Laws, to include primary and special runoff elections;<sup>129</sup> and the expansion of the term "contribution" to include the payment of compensation to a person who is working for a political candidate.<sup>130</sup>

### C. Title III

In the last analysis, it is the disclosure system which will determine whether the provisions of the Campaign Act are adhered to. The disclosure scheme must be capable of determining whether the expenditure ceiling has been violated and of fully informing the public of the nature and amount of the contributions to a candidate's campaign. Thus, the disclosure requirements under Title III of the Act should be examined for their effectiveness in eliminating the reporting deficiencies evident under past legislation and in insulating the enforcement mechanisms from political pressures.

Under the reporting scheme, a "political committee" is defined—as it was for purposes of Title II—as any committee, association, or organization which accepts contributions or makes expenditures in an aggregate amount exceeding \$1,000.<sup>131</sup> The minimum dollar requirement seems reasonable circumvention of any disclosure provision would occur only if a candidate created a multitude of small committees to hide donations—an unlikely possibility considering the potential for impairing the candidate's public image if he violated the spirit of the law in such a way.

Each political committee is required to have a chairman and a treasurer.<sup>132</sup> The treasurer must keep a detailed accounting of all contributions in excess of \$10, including the name, and the address of the contributor.<sup>133</sup> Likewise, the treasurer must keep an accounting of all committee expenditures in excess of \$100.<sup>134</sup> Each treasurer of a political committee and each candidate must file with a supervisory officer (as designated by the act)<sup>135</sup> formal reports of receipts and expenditures.<sup>136</sup> These reports are due on the 10th day of March, June and September of each year, and on the 15th and fifth days preceding the date of an election.<sup>137</sup>

<sup>124</sup> Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. II, § 201, amending 18 U.S.C. § 591 (1970).

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. II, § 202, amending 18 U.S.C. § 600 (1970).

<sup>128</sup> Since section 600 is essentially unenforceable, it might appear that stronger means of preventing favoritism to big contributors is warranted. An absolute prohibition on extending employment or any other benefit to a person who contributed over a certain amount would be one way of minimizing the problem. Of course, this method also prevents qualified contributors from employment; but if the problem of favoritism is deemed serious enough, such broad measures would be desirable.

<sup>129</sup> Act of Feb. 7, 1972 Pub. L. No. 92-225, tit. II, § 201, amending 18 U.S.C. § 591 (1970)..

<sup>130</sup> *Id.*

<sup>131</sup> Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. III, § 301(d). The \$1,000 limitation was found to be the most feasible by the Twentieth Century Fund, Twentieth Century Fund Report, *supra* note 24, at 16.

<sup>132</sup> Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. III, § 302(a).

<sup>133</sup> *Id.* § 302(c).

<sup>134</sup> *Id.* § 302(d).

<sup>135</sup> *Id.* § 301(g).

<sup>136</sup> *Id.* § 304(a).

<sup>137</sup> *Id.*

The reports are extremely detailed and require the disclosure of: (1) cash on hand at the beginning of the reporting period; (2) the name and address of each person who makes a contribution in an aggregate amount in excess of \$100 and the amount of such contribution; (3) the total sum of individual contributions; (4) the amount of funds transferred between political committees; (5) any loans to or from any person in an aggregate amount in excess of \$100; (6) the proceeds obtained from fund raising events and the sale of campaign materials; (7) all other receipts in excess of \$100, if not otherwise listed; (8) the total sum of all receipts; (9) the name and address of each person to whom an expenditure is made in an aggregate amount exceeding \$100 and the amount and purpose of the expenditure; (10) the name and address of each person, as well as the amount and to whom an expenditure is made in excess of \$100 for personal services or salaries; (11) the total sum of expenditures made; (12) the amount and nature of all debts and obligations; and (13) such other information as required by the supervisory officer.<sup>120</sup>

Furthermore, additional comprehensive reports must be filed with the Comptroller General concerning the financing of national party conventions.<sup>121</sup> If these accounting and reporting requirements are adhered to, they should provide all the information necessary to determine any spending or contribution violations. And the extensive disclosure requirements should in themselves be sufficient to discourage any such violations.

The supervisory officer to whom the above reports are made is required to develop an indexing and filing system for the reports, publish the reports no more than two days after they are received, and prepare a comprehensive annual report.<sup>122</sup> The supervisory officer must also report "apparent violations" to the Justice Department.<sup>123</sup> Moreover, any person (including a corporation, etc.) is given standing to file a complaint with the supervisory officer.<sup>124</sup> Upon such a complaint, the officer must determine if there is a substantial reason to believe that a violation has occurred. If so, he is to expedite an investigation; and if a hearing shows that "any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation . . . the Attorney General . . . shall institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order . . . ."<sup>125</sup>

On its face, this procedure seems to provide for a relatively adequate system of enforcement. Yet it masks several problems, the most important being that the supervisory officer is the Secretary of the Senate or the Clerk of the House, for Senate and House candidates, respectively.<sup>126</sup> Consequently, with the exception of presidential candidates, whose supervisory officer is the Comptroller General,<sup>127</sup> (a long-term appointee), candidates must report to partisan officers who are not only subject to political pressures but are also chosen for their respective positions by the very persons whom they have the duty to investigate.

The Senate version of the Campaign Act would have given the role of the supervisory officers to an independent Federal Elections Commission consisting of six members appointed by the President to serve staggered 12-year terms.<sup>128</sup>

<sup>120</sup> *Id.* § 304(b)(1)-(13).

<sup>121</sup> *Id.* § 307. The report on convention financing must be filed not more than 60 days following the convention. The Comptroller General is to prescribe requirements for the report, which must include the sources of campaign funds and the purposes for which such funds were expended.

<sup>122</sup> *Id.* § 308(a).

<sup>123</sup> *Id.* § 308(a)(12).

<sup>124</sup> *Id.* § 308(d).

<sup>125</sup> *Id.*

<sup>126</sup> *Id.* § 301(g).

<sup>127</sup> The Secretary of the Senate and the Clerk of the House are not isolated from politics. (*U.S. Govt. Org. Manual 1971-72, 18-20 (1971)*, which describes the duties of these individuals.) In fact, the very people whom they must regulate and investigate under the Campaign Act elected them to their positions. Professor David Adamany of Wesleyan University expressed the problem of using the Secretary of the Senate and the Clerk of the House as Supervisory Officers:

"For decades the Secretary [of the Senate] and the Clerk [of the House] have been filing officers under the existing Federal statutes. In these decades a pattern has been created of accepting reports without question and simply making them available to the public. I do not believe that a change in the statutory rules will change the deeply ingrained view that the Secretary and the Clerk are merely filing officers. An Elections Commission, on the other hand, because it is freshly created, would be more likely dramatically to alter the reporting forms effectively to obtain information. It would also because of its bi-partisan composition, be more likely to investigate thoroughly and report violations in the reports. 1971 *Hearings on S. 388, supra* note 4, at 808 (testimony of Professor David Adamany of Wesleyan University).

<sup>128</sup> *Id.*

<sup>129</sup> S. 383, 93d Cong., 1st Sess. § 310 (1971).



Although not as potentially effective as the Senate version, the conference committee substitute is not as ineffective as its predecessor under the Federal Corrupt Practices Act, where the Clerk of the House and the Secretary of the Senate were also entrusted with the administration and enforcement of the disclosure provisions. The principal distinction between the two is that, under the Campaign Act, the respective officials acting as supervisory officers are required to publish the individual reports as they receive them, and also to publish a comprehensive annual report.<sup>147</sup> Under the Federal Corrupt Practices Act, the officers merely held open for inspection those reports that had been submitted.<sup>148</sup> The publication requirements are a considerable improvement and should be sufficient to counteract any laxness on the part of the supervisory officers. Similarly, the officers' diligence should be encouraged by the provision allowing any person to charge a violation and file a complaint with the supervisory officer—although this mechanism is not as strong as it might be because the officer still has the unfettered power to conclude that there is no substantial reason to conduct an investigation.<sup>149</sup> Again, however, the requirement of public disclosure of the campaign finance reports should act to guard against nonaction where the facts warrant an investigation.

The Justice Department remains the ultimate repository for enforcement of the Act's provisions; and if criminal action is warranted, it is always within the discretion of the Department to prosecute. Unfortunately, serious problems are presented by the highly political nature of the actions involved and the political character of the Justice Department itself. But the Campaign Act does provide that the Attorney General shall institute a civil action, if, in the judgment of the supervisory officer, a violation has occurred or is about to occur.<sup>150</sup> This terminology indicates that the Justice Department has no discretion in filing suit, although this interpretation is partially undercut by the precondition of the supervisory officer's determination. Once again, however, public disclosure should help secure a fair and impartial determination.

Nevertheless, the conference committee compromise deleting the machinery of the Federal Elections Commission represents a substantial shortcoming in the Campaign Act. The establishment of a purely independent and political autonomous commission,<sup>151</sup> as contained in the Senate version, would have ensured the effective enforcement of the Campaign Act's regulatory provisions.

#### V. CONCLUSION

Virtually any new legislation would be an improvement over the ancient, unrealistic and unenforced campaign finance laws which have existed since 1925. Doubts remain, however, as to how substantial an improvement the Campaign Act is over previous legislation, and whether the new law is a complete answer to the problems of campaign finance, or whether it is merely a stop-gap means of regulation.

The new law creates relatively realistic spending limitations in place of the impracticably low limits set by the Federal Corrupt Practices Act, which led to nonenforcement and commonplace avoidance. The law also centralizes campaign finance under one committee for each candidate, rather than encouraging a system of decentralized committees which were immune from effective regulation and were speciously deemed to operate without the candidate's knowledge. The crux of the new legislation is a system of public disclosure requiring that reports be filed and published before the general election. In addition, the new law gives any individual standing to file a complaint alleging a campaign violation.

Despite these improvements, however, the Campaign Act is hampered by several problems. Given spending limitations which, although realistic, will represent a spending decrease for most candidates, the legislation should have attempted to lower campaign costs (presuming as Congress did that campaign activity should be maintained at its present level). The second problem with the new legislation is the failure to vest disclosure supervision, with respect to congressional candidates, in an independent commission. But regardless of these shortcomings, the Federal Election Campaign Act has the potential to curb excessive campaign spending and provide a workable system of public disclosure.

In assessing the Campaign Act as a final solution to the problems of campaign

<sup>147</sup> Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. III, § 308(a).

<sup>148</sup> 2 U.S.C. § 247 (1970), repealed by Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. IV, § 406.

<sup>149</sup> Act of Feb. 7, 1972, Pub. L. No. 92-225, tit. III, § 308(d).

<sup>150</sup> Id. § 308(d)(1).

<sup>151</sup> S. 882, 92d Cong., 1st Sess. § 810 (1971).

finance, it is clear that the legislators could have gone further. But it must be remembered that—unlike other regulatory areas—Congress here is regulating its own conduct. Thus, a somewhat "soft" approach may be politically unavoidable and the Campaign Act of 1971 may be the best regulation of campaign finance that could have been enacted.

As long as campaign finance is based on a system of private contributions the large contributor will have the power to influence the politician. One alternative to the present system of financing campaigns is a program of public subsidization, which will be available for the 1976 presidential election under Tax Checkoff. Although there is some sentiment for repealing Tax Checkoff, hopefully the plan will be allowed to take effect, if only to give the legislators a unique opportunity to compare the effectiveness of a partial system of public subsidization with that of a relatively well-regulated system based on private contribution.

#### REGULATION OF CAMPAIGN FUNDING AND SPENDING FOR FEDERAL OFFICE

(By Roscoe L. Barrow\*)

The election process is the heart of representative democracy. While major reforms of the process have been achieved through the one man, one vote principle<sup>1</sup> and the abolition of poll tax and property qualifications for voting,<sup>2</sup> our election system remains inadequate. One major inadequacy of the system has arisen from the failure of government to respond satisfactorily to the problems inherent in traditional means of campaign funding.

Heard has correctly stated that the chief requirements for an acceptable means of financing political campaigns are:

(1) that sufficient money be available to sustain the great debate that is politics, which means to assure the main contestants an opportunity to present themselves and their ideas to the electorate; (2) that the needed sums be obtained in ways that do not inordinately weight the processes of government in favor of special political interests; and (3) that the system command that confidence of the citizenry whose governmental officials are chosen through it.<sup>3</sup>

Today political campaigns are being won or lost on the basis of the size of campaign chests, and most winning candidates are subservient, to varying degrees, to their principal financial supporters. Consequently, much of the electorate is losing confidence in the election process. The health of our self-governing society depends upon reform in the funding of that process.

This article will detail significant data on campaign funding and spending, describe the major laws for regulating campaign funding and spending, analyze the constitutional issues raised by these laws, and propose changes to render the laws safer from attack on grounds of unconstitutionality and more effective in achieving a viable election process.

#### I. SIGNIFICANT DATA ON FUNDING OF POLITICAL CAMPAIGNS

In recent years there has been loud complaint about the high cost of political campaigns.<sup>4</sup> Alexander has found that total political costs in the United States rose from \$200 million in 1964 to \$300 million in 1968, an increase of 50 percent in four years.<sup>5</sup> A substantial factor in the rising cost of political campaigns is the increasing use of television for political purposes and the great expense of that

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<sup>1</sup> See *Baker v. Carr*, 369 U.S. 186 (1962), and subsequent cases discussed in *Commentary: One Man, One Vote and the Political Convention*, 40 U. Cin. L. Rev. 1 (1971).

<sup>2</sup> See U.S. Const. amend. XXIV; *Harper v. Virginia Board of Elections*, 383 U.S. 662 (1966) (fourteenth amendment equal protection clause bars state from making payment of a state tax a prerequisite to voting); and *Cipriano v. City of Houma*, 395 U.S. 701 (1969) (equal protection clause bars a state from limiting to "property taxpayers" the right to vote in elections called to approve issuance of revenue bonds of a municipal utility).

<sup>3</sup> A. Heard, *The Costs of Democracy* 430-31 (1960). This book is the most scholarly and significant study of the effect of campaign spending on the political process.

<sup>4</sup> This theme runs throughout the hearings on the Federal Election Campaign Act of 1971. See *Hearings on S. 1, S. 382, and S. 958 Before the Subcomm. on Communications of the Senate Comm. on Commerce*, 92d Cong., 1st Sess., ser. 92-96 (1971) [hereinafter cited as *Senate Hearings*].

<sup>5</sup> H. Alexander, *Financing the 1968 Election 1* (1971). This book is the most incisive analysis of campaign spending in recent elections.

medium. Total expenditures for broadcasting in the presidential nomination and general election campaigns in 1968 were \$28.5 million, more than twice as much as was spent on broadcasting in 1964.<sup>1</sup> For primary and general elections at all levels, a total of \$59.9 million was spent for broadcasting in 1968, an increase of 70 percent over that spent in 1964.<sup>2</sup>

Whether the cost of political campaigns should be characterized as "high" or "low" involves a value judgment. In a representative democracy, maintaining the election process must be prominent in our scale of values. For a nation which has an annual gross national product of more than a trillion dollars, \$300 million dollars—the cost of all election campaigns in the peak year of 1968—may not seem a "high" cost. Indeed, the largest corporate advertiser in the United States spent almost as much on advertising in 1968.<sup>3</sup>

The gravamen of the funding of political campaigns is not "high" cost but the disparate availability of campaign funds to parties and candidates. Members of wealthy families have a substantial advantage in politics because they can finance their own campaigns. Two brothers Kennedy served simultaneously as Senators of Massachusetts and New York, and two brothers Rockefeller served simultaneously as Governors of Arkansas and New York. On the other hand, many other aspirants must forego seeking political office for lack of financial support. For example, Senator Fred Harris of Oklahoma withdrew from the presidential pre-nomination campaign in November 1971, the campaign barely having begun, for lack of funds. This unavailability of campaign funds could convert our representative democracy to a plutocracy of the wealthy.<sup>4</sup>

Money does not always win elections.<sup>5</sup> In 1964 incumbent President Johnson won reelection notwithstanding that the Republican Party and Senator Goldwater had a financial advantage.<sup>6</sup> However, in the presidential election of 1968, one of the closest popular votes in our history, the Republicans spent twice as much money as the Democrats.<sup>7</sup> Senator Humphrey's serious financial handicap certainly contributed to his defeat by President Nixon. As most campaign managers would say, the *sine qua non* of political success is money.

Another serious concern is the contribution or loan of large sums by a person or special interest. Inevitably, the successful candidate becomes subservient to some degree to the persons or special interests which provided the financial support necessary for election. Campaign contributions may, of course, be motivated by several factors, some of which shore up the political process and others which undermine it. A contributor of a huge sum may desire governmental reform and, not being able to become a candidate himself, feel a responsibility to provide financial support to worthy candidates; or he may make a large contribution in the hope of receiving from the successful candidate a quid pro quo in the form of appointive political or diplomatic office or business preferment or other private privilege.<sup>8</sup> Whatever the motive, a gift of the magnitude of almost \$1.5 million, that reported by Mrs. John D. Rockefeller, Jr., as her contribution to the Republican Party in 1968,<sup>9</sup> gives to wealthy persons a power in the election process far beyond that of the average American and contravenes the notion of equality of citizens underlying the one man, one vote principle.

Large contributions by wealthy families and business executives are made principally to the Republican Party. For example, in 1968 of all contributions of \$500 or more, totalling \$17.5 million, Republican committees received 72 percent of the number of contributions and 73 percent of the dollars contributed.<sup>10</sup> On the other hand, labor, through political action committees, largely supports the Democratic Party.<sup>11</sup> Of even greater concern than large contributions are large loans.<sup>12</sup> Inability to repay the loan poses a grave danger of subservency of the elected official to the lender.

<sup>1</sup> *Id.* at 5.

<sup>2</sup> *Id.* at 93.

<sup>3</sup> *Senate Hearings* 437.

<sup>4</sup> Editorial, *New York Times*, November 12, 1970, at 42, col. 3.

<sup>5</sup> A. Heard, *supra* note 3, at 16, suggests caution in assuming that a winning candidate having the larger campaign chest won election for that reason. He points out that there are many other factors, such as the substance of the campaign issues and the candidate's popularity. However, during the period in which Heard's data were obtained, the gap between Republican and Democratic campaign expenditures was moderate. *Id.* at 19. In recent years this gap has widened.

<sup>6</sup> H. Alexander, *supra* note 5, at 1.

<sup>7</sup> *Id.*

<sup>8</sup> A. Heard, *supra* note 3, at 71-72.

<sup>9</sup> H. Alexander, *supra* note 5, at 29.

<sup>10</sup> *Id.* at 162.

<sup>11</sup> *Id.* at 101.

<sup>12</sup> For an analysis of data on political campaign loans, see *id.* at 153-54, 177-79.

These circumstances may cause a large segment of society to lose confidence in the election process. Even in presidential elections when interest is highest, less than two-thirds of the electorate go to the polls and the percentage of the electorate participating in the election process is declining.<sup>22</sup> There appears to be a movement toward depoliticization and party decomposition<sup>23</sup> with the possibility that nonparticipants may seek solutions to society's problems outside of the election process. Reform of the election process is necessary to maintain and enhance the confidence of the electorate in our political system.

## II. MAJOR LAWS REGULATING CAMPAIGN FINANCING

### A. Federal Election Campaign Act of 1971

Over the years a number of laws have been enacted to regulate campaign contributions and expenditures, but most have been ineffective. In January of 1972 Congress passed the Federal Election Campaign Act of 1971, the first major statutory reform in this area of the law in over fifty years. This comprehensive Act will govern the financing of presidential as well as congressional campaigns and regulate the use of the broadcast and other communications media for political purposes.

1. *Limitations upon Contributions and Expenditures by Corporations, Labor Unions and Government Contractors*—In 1907 a predecessor of the Federal Corrupt Practices Act prohibited corporations from making financial contributions in federal elections.<sup>24</sup> In 1943 the War Labor Disputes Act temporarily prohibited labor unions from making direct contributions in federal elections,<sup>25</sup> and in 1959 the Taft-Hartley Act permanently prohibited labor unions from making a contribution or expenditure in federal elections and made the limitation on political activity of corporations identical.<sup>26</sup> In general the 1971 Act retains these statutory provisions and strengthens similar provisions applicable to government contractors.<sup>27</sup> The Act does, however, amend the prohibition against political activity by labor organizations and corporations to except any communications by a labor organization to its members and their families and by a corporation to its shareholders and their families, as well as non-partisan registration and voter turnout activities by unions or corporations.<sup>28</sup> This amendment largely codifies judicial decisions interpreting the existing statute.<sup>29</sup>

Examining with particular emphasis the limitations placed upon the campaign financing activities of corporations and labor unions, the purpose of these limitations has clearly been to prevent the officials of these institutions from using funds of corporate shareholders or union members to influence the outcome of elections or to support candidates or parties which some shareholders or union members might not favor.<sup>30</sup> To a significant degree, this legislation has limited the participation of corporations and labor organizations in the election process. Nevertheless, for a variety of reasons, contributions from corporations and labor organizations continue to be a substantial factor in elections.

The management of corporations may still make individual contributions to parties and candidates. A corporation's board of directors can establish executive compensation at a level which takes into account the asserted responsibility of management to participate in the election process and then urge management to assume its responsibility. Moreover, a corporation is not prohibited from urging employees to contribute to the party or candidates of their choice, and many corporations do this.<sup>31</sup> By restricting this solicitation to the management level, the corporation can assure that the contributions will be made largely to a party or candidates preferred by the corporation. Furthermore, many business and professional political action committees contribute overwhelmingly to the Republican Party and Republican candidates.<sup>32</sup> Similarly,

<sup>22</sup> A. Campbell, P. Converse, W. Miller & D. Stokes, *The American Voter* 69 (abr. 1964).

<sup>23</sup> W. Burnham, *Critical Elections and the Main Springs of American Politics* 71-81 (1970).

<sup>24</sup> Ch. 420, 34 Stat. 864 (1907). For a comprehensive description of the federal regulatory statutes, see Lohel, *Federal Control of Campaign Contributions*, 51 Minn. L. Rev. 1 (1966).

<sup>25</sup> Ch. 144, 57 Stat. 168 (1943).

<sup>26</sup> Labor Management Relations Act of 1947 § 304, 15 U.S.C. § 610 (1970).

<sup>27</sup> Pub. L. No. 92-225, § 206 (Feb. 7, 1972) [hereinafter cited as Election Act].

<sup>28</sup> Election Act § 205.

<sup>29</sup> Rice, *Unions in the Political Arena: Legislative Attempts to Control Union Participation in Politics*, 23 Sw. L.J. 713, 716-81 (1969); Wood, *Corporations and Politics*, 22 Bus. Lawyer 773, 777 (1967).

<sup>30</sup> *United States v. CIO*, 335 U.S. 106, 116 (1948).

<sup>31</sup> Wood, *supra* note 23, at 780.

<sup>32</sup> H. Alexander, *supra* note 8, at 200-60.

labor organizations indirectly engage in political activity through political action committees which usually expend voluntary employee contributions in support of the Democratic Party and Democratic candidates.<sup>10</sup> Corporations and labor organizations may also engage directly in activities which affect the outcome of elections, such as taking a position on a controversial issue which aids the party or candidate which shares the corporation's or labor organization's view, and using funds to enable voters to register.

2. *Limitations on Expenditures by or in behalf of Candidates*—The Act limits the amount that a candidate or others acting in his behalf may spend for the use of all communications media to ten cents per resident of voting age in the applicable geographical area or \$50,000, whichever is greater.<sup>11</sup> Not more than 60 percent of this amount may be spent on broadcasting.<sup>12</sup> In the case of presidential election campaigns, this percentage limitation is applied on a state by state basis, rather than nationally, so that a disproportionate sum may not be spent in key states.<sup>13</sup>

Prior to passage of the Act, federal law limited to \$5,000 the amount which any person could contribute during any calendar year or in any campaign to or on behalf of any candidate for political office, or to or on behalf of any political action committee supporting a candidate for any office.<sup>14</sup> Unfortunately, this provision permitted a person to contribute the \$5,000 maximum to every political action committee even though several committees supported the same candidate.<sup>15</sup> Also, while no political action committee was permitted to receive or expend more than \$3 million in any calendar year,<sup>16</sup> the purpose of the legislation was circumvented by establishing as many political action committees as there were multiples of \$3 million available. Finally, state, local and territorial committees were expressly excepted from the law.<sup>17</sup>

The Act repeals these contribution and committee expenditure limitations.<sup>18</sup> This raises the question whether placing the maximum limitation only on expenditures for use of media in political campaigns is sufficient to prevent undue influence on elections by expenditure of large sums of money in other ways.

With regard to the amount which a candidate may spend from his personal funds or funds of his immediate family, the Act limits the sum to \$50,000 in the case of President or Vice-President, \$35,000 in the case of Senator, and \$25,000 in the case of Representative or other federal office.<sup>19</sup> This should somewhat reduce the advantage of wealthy candidates. Under previous law the limitations did not apply to candidates for executive office,<sup>20</sup> and many types of expenditures were excepted from the limitation.<sup>21</sup> Nevertheless, the possibility remains that a candidate will circumvent the limitation by making gifts to trusted friends or political action committees in anticipation of a future campaign, with such persons and committees later making the contributions and expenditures in the wealthy candidate's behalf.

The Act strengthens prohibitions against offering employment, subcontracts, or other benefits available under a federal program in exchange for political support.<sup>22</sup> Moreover, the Act does not affect present laws which prohibit candidates for federal political office from soliciting or receiving contributions from federal employees for political purposes<sup>23</sup> and prohibit federal employees from running for partisan office or participating in the campaign of another partisan candidate, except in specified communities where federal employees constitute the largest group of citizens.<sup>24</sup> However, political action committees are not prohibited from soliciting contributions from federal employees. A rumor that the "boss" expects employees to do their duty to the party may cause ambitious

<sup>10</sup> *Id.* at 194-200; Rice, *supra* note 25, at 714.

<sup>11</sup> Election Act § 104(a) (1) (A).

<sup>12</sup> *Id.* § 104(a) (1) (B).

<sup>13</sup> *Id.* § 104(a) (3) (A).

<sup>14</sup> Act of July 19, 1940, ch. 640, § 4.54 Stat. 767.

<sup>15</sup> Lobel, *supra* note 20, at 22-23.

<sup>16</sup> Act of July 19, 1940, ch. 640, § 4.54 Stat. 772.

<sup>17</sup> Federal Corrupt Practices Act of 1925, ch. 303, § 303(a), 43 Stat. 1070.

<sup>18</sup> Election Act § 204.

<sup>19</sup> *Id.* § 203.

<sup>20</sup> The relevant provisions of the Federal Corrupt Practices Act of 1925, ch. 303, § 303, 43 Stat. 1073, placed limitations only on the expenditures of Senate and House candidates.

<sup>21</sup> *Id.*

<sup>22</sup> Election Act § 202.

<sup>23</sup> 18 U.S.C. § 803 (1970); 5 U.S.C. §§ 7321-7325 (1970).

<sup>24</sup> 5 U.S.C. §§ 7322-7327 (1970); 5 C.F.R. §§ 732, 122-124 (1971).

government employees, particularly those who are members of the party in power, to contribute.<sup>44</sup>

**3. Limitations on the Communications Media**—The Act provides that broadcasters may not charge political candidates more than the lowest unit cost for the same advertising time charged to commercial advertisers and that non-broadcast media may not charge political candidates more than the comparable amounts charged to commercial advertisers for the same class and amount of advertising space. This requirement applies only during a forty-five day period preceding primary elections and a sixty day period preceding general elections.<sup>45</sup>

The most significant law dealing with equality of opportunity for candidates to present themselves and their ideas to the electorate is section 315 of the Communications Act of 1934,<sup>46</sup> which provides that if a broadcaster grants the use of broadcasting facilities to a candidate for political purposes, equal opportunities, including equal time, must be granted to all candidates for the same office.<sup>47</sup> An important supplement to the equal opportunities doctrine is the fairness doctrine, which requires that if a broadcaster presents one side of a controversial issue of public importance, he must grant reasonable time to an appropriate spokesman to present the other point of view.<sup>48</sup> Ironically, the Senate version of the Federal Election Campaign Act of 1971 excepted federal elective offices from the equal opportunities doctrine;<sup>49</sup> however, the bill as finally enacted does not modify the doctrine.

**4. Reporting Requirements; Administration**—The Act requires that candidates, individuals and political action committees keep financial records and report each contribution, loan or expenditure in excess of \$100, as well as total receipts, loans and expenditures.<sup>50</sup>

Although the Senate bill proposed that the Act be administered by a six-member Federal Elections Commission,<sup>51</sup> the final enactment provides for the division of administrative responsibilities. The Secretary of the Senate will serve as the supervisory officer for Senatorial campaigns, the Clerk of the House will serve as the administrator for campaigns for the House of Representatives and the Comptroller-General will serve as the administrator for other federal elective offices.<sup>52</sup>

## B. Revenue Act of 1971

The Presidential Election Campaign Fund Act of 1966 provided that individuals making a federal income tax return could designate that \$1 of the tax should be paid to the Presidential Election Campaign Fund.<sup>53</sup> The statute provided a formula of support which was the same for the two major parties but substantially larger than the support available to third parties.<sup>54</sup> The statute was not to become effective until guidelines were adopted governing the distribution of the funds.<sup>55</sup> These guidelines were never enacted, the Presidential Election Campaign Fund Act of 1966 was never activated, and the Act was repealed by the Revenue Act of 1971.<sup>56</sup> Had the statute been put into effect for the 1972 presidential campaign the Democrats and Republicans would have been eligible to receive \$20 million each, and the American Independent Party would have been eligible for approximately \$5 million.<sup>57</sup> Since the statute required a popular vote of at least five million in the preceding presidential election in order to be eligible to receive a subsidy from the fund,<sup>58</sup> no other party would have qualified.

<sup>44</sup> Lohel recognizes the complaints that have been made against the absolute prohibition of political contributions to specified federal officials by federal employees, 18 U.S.C. § 607 (1970), and suggests that a \$100 contribution to local and state campaigns be allowed. Lohel, *supra* note 20, at 27-28.

<sup>45</sup> Election Act § 103.

<sup>46</sup> 47 U.S.C. § 315 (1970).

<sup>47</sup> A comprehensive analysis of the equal opportunities doctrine is contained in Barrow, *The Equal Opportunity and Fairness in Broadcasting: Pillars in the Forts of Democracy*, 37 U. Cin. L. Rev. 447 (1968).

<sup>48</sup> *Id.*

<sup>49</sup> 89-809, 89th Cong., 1st Sess. § 101(a) (1971).

<sup>50</sup> Election Act §§ 304-305.

<sup>51</sup> 89-809, 89th Cong., 1st Sess. § 310 (1971).

<sup>52</sup> Election Act § 303(g).

<sup>53</sup> Act of Nov. 13, 1966, Pub. L. No. 89-800, § 302(a), 80 Stat. 1587.

<sup>54</sup> *Id.* § 303, 80 Stat. 1588.

<sup>55</sup> Act of June 13, 1967, Pub. L. No. 90-26, § 5, 81 Stat. 63.

<sup>56</sup> 11 U.S. Code Cong. & Ad. News 1, 100 (1971).

<sup>57</sup> These data are obtained by applying the statutory formula set forth in Pub. L. No. 89-809, § 303, 80 Stat. 1589, to the popular vote in the presidential election of 1968, in which the Republicans received 31,745,480, the Democrats 31,275,473 and the American Independents 9,908,473 votes. All other parties received a total popular vote of only 244,444 votes. New York Times Encyclopedia Almanac 149 (1971).

<sup>58</sup> Act of Nov. 13, 1966, Pub. L. No. 89-809, § 303(c), 80 Stat. 1588.

Sections 801 and 802 of the Revenue Act of 1971, the Presidential Election Campaign Fund Act,<sup>2</sup> contain provisions for support of presidential campaigns similar to the repealed Presidential Election Campaign Fund Act of 1966. Section 802 provides that taxpayers may designate that \$1 of their taxes be paid to the Presidential Election Campaign Fund for allocation to the party of the taxpayer's choice or to a non-partisan account. However, if the taxpayer does not make any designation, partisan or non-partisan, no part of the taxpayer's payment will be placed in the fund. If the total amount designated for a specific party is insufficient to pay the sum for which the party qualifies, an amount will be allocated from the non-partisan account to make up the deficiency. If the non-partisan account lacks sufficient funds to make up the deficiency, the party is permitted to accept sufficient contributions from other sources to make up the deficiency, but no more. A party may elect not to accept the support provided by the statute, in which event the party is not limited to the maximum expenditure limitation of this statute. However, if a party elects to accept the support, it must limit its expenditures to the sum for which it is eligible under the statute.

The sum allocable under the statute is computed as follows. Major parties, those which received 25 percent or more of the popular vote in the preceding presidential election, are entitled to a sum equal to fifteen cents multiplied by the number of residents in the United States who were eighteen years of age or older on June 1 of the year preceding the year in which the presidential election is held. Minor parties, those which received more than 5 percent but less than 25 percent of the popular vote in the preceding presidential election, are eligible to receive an amount determined by the percentage of the average major party's vote represented by the vote for the minor party in the same preceding election. Thus, major and minor parties receive an allotment prior to each election based on their performance in the election four years earlier. On the other hand, a new party is given an allotment after each election in which it receives a certain statutory minimum vote. If a new party obtains more than 5 percent of the popular vote in a current presidential election, it will be reimbursed in an amount equal to the allotment of a major party, multiplied by the ratio of the number of popular votes received by the new party's candidate to the average of the number of votes received by major party candidates.

As drafted, the statute contemplated that the funds to support presidential campaigns would be allocated in the election of 1972. However, President Nixon stated categorically that the Revenue Act of 1971 would be vetoed if the support were applied to the presidential elections of 1972, when presumably President Nixon will be the Republican candidate for President. Accordingly, the conferees of the Senate and House agreed to postpone application of the support provisions until the presidential election of 1976.<sup>3</sup>

A further reservation raises a question as to whether enactment of the new Presidential Election Campaign Fund Act has any practical significance. As originally drawn, amounts checked off by taxpayers were to be appropriated automatically to the Presidential Election Campaign Fund. However, the conferees of the Senate and House agreed that the payments into the fund would be made only by appropriation acts.<sup>4</sup> A similar reservation in the Presidential Election Campaign Fund Act of 1966 resulted in that statute never being put into effect. It would not be surprising if the Presidential Election Campaign Fund Act of 1971 meets the same fate.

The Revenue Act of 1971 also provides a tax incentive for contributions to candidates for public office. Section 701 of the Act gives taxpayers the alternative of a tax credit of \$12.50 (\$25 for married persons filing jointly), or a deduction from gross income of \$50 (\$100 for married persons filing jointly) for political contributions in a federal, state, local, primary, general or special election.<sup>5</sup> The credit or deduction applies only to political contributions made in 1972 and subsequent years.<sup>6</sup>

#### C. Postscript

While the enforcement of laws regulating campaign financing is difficult, actions have been brought against corporations and labor organizations for violation of prior laws prohibiting them from making contributions or expenditures for political purposes.<sup>7</sup> Nevertheless, loopholes in pre-1971 statutes and the

<sup>2</sup> 11 U.S. Code Cong. & Ad. News 87-300 (1971).

<sup>3</sup> *Id.* at 80.

<sup>4</sup> *Id.* at 82.

<sup>5</sup> *Id.* at 84-85.

<sup>6</sup> *Id.* at 80.

<sup>7</sup> H. Alexander, *supra* note 5, at 198-200, 209.

failure of Congress to invoke the Presidential Campaign Fund Act of 1966 rendered ineffective the attempts to control unfair practices. By enacting the Federal Election Campaign Act of 1971 and the provisions of the Revenue Act of 1971, Congress has made a renewed commitment to electoral reform.

Complementing the federal legislation are several state statutes regulating expenditures in political campaigns for state and local offices. For example, a majority of states have enacted corrupt practices statutes which prohibit corporations from making contributions or expenditures for political purposes in state and local elections.<sup>66</sup> While an analysis of state laws is beyond the scope of this article, state legislation provides a helpful background for programing a system of federal regulation of campaign spending.<sup>67</sup>

### III. CONSTITUTIONAL ISSUES RAISED BY REGULATION OF CAMPAIGN FUNDING AND SPENDING

Regulation of campaign funding and spending involves a balancing of society's interest in a workable and fair election process with the individual citizen's freedom of speech and assembly in the important area of political expression.<sup>68</sup> The conflict of these interests, which are at the peak of our scale of societal values, raises serious constitutional issues. Reasonable regulation of campaign funding and spending, to enable candidates to present themselves and their ideas to the people, to prevent excessive influence on the election by the wealthy or other special interests, and to instill confidence of the electorate in our election process,<sup>69</sup> should withstand attack by those who charge that such regulation is unconstitutional. However, it is important that such regulations not unduly restrict any citizen's opportunity to participate in the election process.

#### A. Congressional Power to Regulate Federal Election Campaigns

The constitutional basis for congressional regulation of campaign funding and spending in federal elections is clear in the case of congressional elections than of presidential elections. Article I, section 4 expressly authorizes Congress to make law, or alter state law, governing the "Times, Places and Manner" of holding elections for Senators and Representatives. In *Smiley v. Holm*,<sup>70</sup> the Supreme Court, in dictum now unquestioned, stated that this authorization includes the "authority to provide a complete code for congressional elections" including "corrupt practices."<sup>71</sup> As to presidential elections, Article II, section 1 leaves the manner of appointment of electors to the states and empowers Congress to determine "the Time of chusing the Electors and the Day on which they shall give their Votes."

There are several other probable sources of constitutional power to regulate presidential and congressional elections: the necessary and proper clause, the commerce clause, and the power of Congress to make laws implementing section 1 of the fourteenth amendment which prohibits the states from abridging privileges of citizens and denying due process and equal protection.<sup>72</sup> Since election to federal office has become a business with contributions, goods and service in the campaign flowing across state lines, the flexible commerce clause might well be stretched to cover business related to elections. The power conferred by the Constitution on the states to make laws governing the election of Presidential Electors and Congressmen provides a basis for invocation of the fourteenth amendment to review state action.<sup>73</sup>

Notwithstanding the foregoing authority, the Supreme Court appears to have based its decisions sustaining the regulation of presidential elections on inherent power of sovereignty. In *Ex Parte Yarbrough*,<sup>74</sup> involving intimidation of Negro

<sup>66</sup> See, e.g., N.Y. Penal Law § 671 (McKinney 1967); Rice, *supra* note 25, at 721-22.

<sup>67</sup> For an analysis of the state approaches, see H. Alexander, *Regulation of Political Finance* (1966).

<sup>68</sup> For an analysis of the constitutional issues, see A. Rosenthal, *The Greening of American Elections: Some Constitutional Questions Involved in the Regulation of Campaign Finance*. An amplification of this mimeographed 88 page paper will be published early in 1972 by Citizens' Research Foundation, Princeton, New Jersey. Citations in this article are to the mimeographed paper.

<sup>69</sup> See note 3 *supra* and accompanying text.

<sup>70</sup> 285 U.S. 355 (1932).

<sup>71</sup> *Id.* at 366.

<sup>72</sup> A. Rosenthal *supra* note 67, at 11-12.

<sup>73</sup> *Williams v. Rhodes*, 393 U.S. 23 (1968); *Katzenbach v. Morgan*, 384 U.S. 641 (1966); *cf. Oregon v. Mitchell*, 400 U.S. 112 (1970); A. Rosenthal, *supra* note 67, at 18-20.

<sup>74</sup> 110 U.S. 65 (1884).



voters in an election for Congress, the Supreme Court, in upholding a statute applying to both presidential and congressional elections, stated:

That a government whose essential character is republican, whose executive head and legislative body are both elective . . . has no power by appropriate laws to secure this election from the influence of violence, of corruption, and of fraud, is a proposition so startling as to arrest attention. . . . It is essential to the successful workings of this government that the great organisms of its executive and legislative branches should be the free choice of the people. . . .<sup>1</sup>

Again, in *Burroughs v. United States*,<sup>2</sup> where the requirement in the old Federal Corrupt Practices Act that political action committees report contributions and expenditures in presidential campaigns was held constitutional, the Supreme Court stated:

To say that Congress is without power to pass appropriate legislation to safeguard [a presidential] election from the improper use of money to influence the result is to deny to the nation in a vital particular the power of self protection. Congress, undoubtedly possesses that power. . . .<sup>3</sup>

This inherent power of sovereignty would seem to provide ample basis for reasonable regulation of federal elections.

In *Burroughs*, the Supreme Court further indicated that Congress would not be held to a stricter test of reasonableness in choosing the means of regulating federal elections than is applied in reviewing the work of the Congress in other areas. The Court stated:

The power of Congress to protect the election of the President and Vice-President being clear, the choice of means to that end presents a question primarily addressed to the judgment of Congress. If it can be seen that the means adopted are really calculated to attain the end, the degree of their necessity, the extent to which they conduce to the end, the closeness of the relationship of the means adopted and the end to be attained, are matters for congressional determination alone.<sup>4</sup>

Yet, it would not be surprising to find the Supreme Court, in the context of an unduly severe limitation upon contributions or expenditures, repeating a statement it made in a case not involving regulation of corrupt political practices, *Shelton v. Tucker*:<sup>5</sup>

In a series of decisions this Court has held that, even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can more narrowly be achieved. The breadth of legislative abridgment must be viewed in the light of less drastic means for achieving the same basic purpose.<sup>6</sup>

The power to regulate primary elections should be identical with the power to regulate general elections. In *Newberry v. United States*,<sup>7</sup> the Supreme Court held that primaries are not elections but merely a method of agreeing on candidates. This is an unsound result; if primaries cannot be regulated to prevent corruption, in the general election the electorate may be limited to a Hobson's choice between two candidates corruptly chosen. The Supreme Court, in the later case of *United States v. Classic*,<sup>8</sup> upheld a conviction for falsely reporting the count of ballots in a primary. At the same time, the Court held that a primary was a part of the election process contemplated by the Constitution. *Classic* implicitly overrules *Newberry*, and Congress today probably would be held to have the power to enact corrupt practices legislation applicable to primaries.

#### B. Limitations upon Contribution and Expenditures

Heard has described the evolution of American political campaign methods through five stages: the initial period of limited public campaigning, the torch-light era commencing with Jackson, large scale use of campaign literature beginning in 1880, radio campaigning from 1928, and dominance of television

<sup>1</sup> Id. at 657, 668.

<sup>2</sup> 290 U.S. 634 (1934).

<sup>3</sup> Id. at 545.

<sup>4</sup> Id. at 647-48.

<sup>5</sup> 364 U.S. 479 (1960).

<sup>6</sup> Id. at 488.

<sup>7</sup> 256 U.S. 282 (1921).

<sup>8</sup> 313 U.S. 299 (1941).

campaigning from 1952 to date.<sup>20</sup> In assessing the legality of regulating campaign funding and spending, it is important to take into account the current methods of campaign spending and the financial requirement of an effective campaign.

As shown in part II of this article, the major types of regulation of campaign funding and spending include limitations upon the political expenditures of corporations and labor unions. There is a dearth of Supreme Court decisions on the constitutionality of legislation of this nature. Probably this is because loopholes in the statutes alleviated the incentive to test the legislation's validity. Yet, the long history of acceptance of the regulatory statutes tends to support their constitutionality.

*1. Limitations on Expenditures by a Candidate from His Own Resources*—If the limitation on the amount which a candidate may expend from his own resources were set so low that he could not present himself and his ideas to the electorate, this might well constitute an unreasonable restraint on freedom of speech. On the other hand, the purpose of limiting the size of expenditures is to prevent the wealthy candidate from having an undue advantage in elections.

A distinction could be made between expenditures of one's own money and expenditures of money donated by others. Certainly a candidate should be protected by the first amendment in spending his own money to make as many speeches as he can make. But if a candidate is using the money of others to fund his speeches, or if he is using either his own money or money contributed by others to induce others to make speeches in his behalf, his first amendment interest is not as strong. Nevertheless, legislation regulating campaign expenditures from a candidate's own resources should not set limits so low that the statute increases the natural advantage of incumbents.<sup>21</sup>

To the extent that the wealthy candidate is allowed an undue advantage, money is a pollutant in the election and the practice is corrupt. If the limitation does not prevent the availability of adequate funds to support fair and honest elections, limitations on size of expenditures by candidates to prevent disproportionate influence on the election would be constitutional. This is consistent with the one man, one vote principle in reapportionment cases and other Supreme Court decisions holding that financial or property qualifications for voting deny equal protection of the law.<sup>22</sup>

*2. Limitations on Corporations, Labor Unions, and Federal Employees*—There is limited authority by the Supreme Court on the constitutionality of legislation limiting campaign contributions and expenditures by source. All corporations are prohibited from contributing or spending money in federal elections.<sup>23</sup> In fact, corporations were the first entities to be excluded from the election process. Since the exclusion is total, it is surprising that there is no Supreme Court case on the constitutionality of the legislation. Apparently some corporate managers accepted the concept that corporate funds should not be used to support parties or candidates opposed by some members of a pluralistic group of shareholders, while other corporations used the available loopholes.<sup>24</sup>

The prohibition against labor organizations making contributions or expenditures in federal political campaigns<sup>25</sup> was first tested in *United States v. CIO*.<sup>26</sup>

The union supported a candidate for Congress in a union newspaper which was published with union funds and distributed solely to union members. To avoid the first amendment issue, the Supreme Court held that the word "expenditure," as used in the statute, was not intended by Congress to apply to a union newspaper distributed solely to union members and not to the general public.<sup>27</sup> Later,

<sup>20</sup> A. Heard, *supra* note 3, at 400-24.

<sup>21</sup> The unprecedented amount of time that President Nixon requested and received to report to the people on controversial issues such as the Vietnam War, economic controls, and the like has prompted many requests, based on the fairness doctrine by spokesmen for the Democratic Party for reasonable time to present the opposing viewpoint. Most of these requests have been denied. See *Democratic Nat'l Comm. v. FCC*, 40 U.S.L.W. 2488 (D.C. Cir. Feb. 2, 1972).

<sup>22</sup> Notes 1 and 2 *supra*.

<sup>23</sup> Notes 20 and 22 *supra* and accompanying text.

<sup>24</sup> Notes 27 and 28 *supra* and accompanying text. In *United States v. Lewis Food Co.*, 385 F.2d 710 (9th Cir. 1966) the corporation published in 33 newspapers the voting record of all California legislators on "constitutional principles." The court of appeals reversed the district court's dismissal of the indictment and held that whether the advertisement was designed to influence the public at large to vote for particular candidates was a 100% question.

<sup>25</sup> Notes 21 and 22 *supra* and accompanying text.

<sup>26</sup> 335 U.S. 106 (1948). The author of this article was one of the Government's counsel in this litigation.

<sup>27</sup> The legislative history is contrary to the Supreme Court's position. During the debate, Senator Taft, who sponsored the Taft-Hartley Act in the Senate, was asked on several occa-

1 *United States v. Iato Workers Union*,<sup>20</sup> the Supreme Court upheld an injunction for using union funds to pay for a television broadcast supporting certain candidates for federal office, however the constitutional issue was held off ripe for adjudication.<sup>21</sup> In the opinion, the Court explained that the "evil at which Congress has struck . . . is the use of corporate or union funds to influence the public at large to vote for a particular candidate or a particular party."<sup>22</sup> The dissent would have held, without remand, that the union's expression of political views was protected by the first amendment.<sup>23</sup> That the Supreme Court did not take advantage of the opportunities in the above cases to decide the constitutional issue, thereby leaving the statute operative suggests that the constitutionality of the statute in an appropriate case would be sustained.

The Supreme Court has spoken clearly on the constitutionality of legislation restraining the political activities of federal civil service employees.<sup>24</sup> The Hatch Act<sup>25</sup> prohibits federal civil service employees from speaking or writing in support of a political candidate. In *United Public Workers of America v. Mitchell*,<sup>26</sup> this restraint was held constitutional.

The essential rights of the First Amendment in some instances are subject to the elemental need for order without which the guarantees of civil rights to others would be a mockery . . . Again this Court must balance the extent of the guarantees of freedom against a congressional enactment to protect a democratic society against the supposed evil of political partisanship by classified employees of the government. . . . The determination of the extent to which political activities of governmental employees shall be regulated lies primarily with Congress. . . . When actions of civil servants in the judgment of Congress menace the integrity and the competency of the service, legislation to forestall such danger and adequate to maintain its usefulness is required. The Hatch Act is the answer of Congress to this need. We cannot say with such a background that these restrictions are unconstitutional.<sup>27</sup>

In earlier cases, the Supreme Court had sustained statutes which prohibited any federal employee from giving to or receiving from any other federal employee a contribution for political purposes and barred Congressmen from receiving political contributions from federal employees.<sup>28</sup> The opinions in these cases emphasize that the efficiency and integrity of the federal civil service would be jeopardized if federal employees could be pressed into political service or rewarded on the basis of such service. These considerations underlie the establishment of the merit system of appointing federal employees. Nevertheless, although held constitutional in *Mitchell*, prohibiting all participation in a political campaign raises a much stronger first amendment issue than merely prohibiting contributions for political purposes.<sup>29</sup>

3. *Reporting Requirements*—In general, the 1971 Act requires that candidates and those acting in their behalf report total receipts, loans and expenditures as well as each contribution, loan and expenditure in excess of \$100.<sup>30</sup> In *Burroughs v. United States*,<sup>31</sup> the Supreme Court held that Congress had the power to legislate in the area of disclosure of political contributions, although first amendment issues were not raised. It is certainly true, however, that requiring the reporting of the source of small contributions and thereby disclosing one's political affiliation or support of a particular candidate or issue might lead in some circumstances to reprisal by an employer or an impairment of the relationship with one's associates. Also, there is less reason to require reporting of small contributions that do not give the donor significant influence over the elected official. An

<sup>20</sup> Even whether favoring a political candidate in a union newspaper came within the ban of the statute and he always answered affirmatively and clearly. 93 Cong. Rec. 6436-40, 6447 (1947). Also, in his veto message, President Truman gave us a reason for vetoing the statute that it would "infringe the ordinary union newspaper from commenting favorably or unfavorably upon candidates." 93 Cong. Rec. 7488 (1947).

<sup>21</sup> 393 U.S. 847 (1967).

<sup>22</sup> *Id.* at 849-52.

<sup>23</sup> *Id.* at 859.

<sup>24</sup> *Id.* at 858.

<sup>25</sup> For a description of this legislation, see text accompanying note 43 *supra*.

<sup>26</sup> 330 U.S. 294, 75-2727 (1970). 3 C.F.R. 48,733, 722-724 (1971).

<sup>27</sup> 330 U.S. 75 (1947). A companion case in which the political activity was presiding over a fund raising dinner in Oklahoma v. Civil Service Commission 330 U.S. 127 (1947).

<sup>28</sup> *Id.* at 95-96, 102.

<sup>29</sup> *Ex parte Curtis*, 109 U.S. 371 (1882). *United States v. Wurzbach*, 290 U.S. 306 (1933). In these cases the only issue considered by the Supreme Court was the power of Congress to legislate in the area. The first amendment issue was not raised.

<sup>30</sup> A. Rosenthal *supra* note 67, at 40 n. 60.

<sup>31</sup> Election Act § 302-303.

<sup>32</sup> 290 U.S. 834 (1934).

in some contexts involving sensitive areas of privacy and personal relationships, reporting of only the aggregate of small contributions, without the individual sources, may fulfill the purposes of a corrupt practices statute without causing constitutional problems.<sup>125</sup>

Since the new legislation excepts from the reporting requirements those contributions under \$100, the basis for constitutional challenge is weaker than under prior law.<sup>126</sup> Nevertheless, a \$100 contribution is unlikely to give the donor significant influence over the elected officials; indeed, the minimum contribution which must be reported could arguably be substantially higher without jeopardizing the purposes of the disclosure requirement.

### C. Limitations Upon Use of the Communications Media

The Federal Election Campaign Act of 1971 places a limitation on the amount which a candidate may spend on broadcasting for political purposes. The Act imposes a maximum limitation upon the amount which a candidate may spend for use of the communications media and then provides that no more than 5 percent of that amount may be spent in the broadcast media.<sup>127</sup> A similar provision was contained in a bill passed by Congress in 1970 and vetoed by President Nixon.<sup>128</sup> In light of the cases upholding regulation of campaign expenditures, the extensive regulation of broadcasting which already exists, and the unique impact of broadcasting on political campaigns, there is little doubt that the limitation on the amount which can be spent on broadcasting for political purposes would, if challenged, be held constitutional.

The broadcasting industry has taken the position that any limitation on the amount which may be spent on use of media for political purposes should apply to all media, rather than solely to broadcasting, and that the candidate should be free to choose the manner in which the permitted sum is to be allocated among the media.<sup>129</sup> Regulation of the sum which a candidate may spend on broadcasting without extending the limitation to newspapers, magazines and other media may conceivably raise an issue under the fifth amendment of unequal protection of the laws.<sup>130</sup> However, the Supreme Court has long recognized that the Congress can strike first at the greatest evil without treating simultaneously all degrees of harmful action.<sup>131</sup> In political campaigning, this is the age of television and the impact on the electorate of personal appearance on television and the dramatic advertisements devised by professionals give television a unique position. Hence, separately classifying the broadcast media and limiting the sum which may be spent for political broadcasts is reasonable. Radio has much less impact than television. However, lumping radio with television and making the limitation applicable to broadcasting generally does not appear to raise any substantial issue of unreasonableness of classification.

However, when Congress accepted the broadcasters' viewpoint by establishing a limitation on the sum which candidates and those acting in their behalf may spend on non-broadcast media for political purposes and requiring a candidate to certify in writing to a newspaper or magazine that applicable spending limitations are not being violated,<sup>132</sup> it raised still another constitutional question: does freedom of the press protect the print media from statutory limitations on the use of the media for political purposes? Broadcasting is a unique medium of communication. Access to broadcasting is limited by nature. Broadcasters operate their stations as licensees serving the public interest, and television is unique both in its impact on the electorate and in the cost of political campaigns.

<sup>125</sup> *See* Rosenthal *supra* note 87 at 62-63; *see* *Talley v. California*, 302 U.S. 60 (1938) invalidating an ordinance prohibiting the distribution of handbills not carrying the name and address of the sponsor because it was reasonable to suppose that there would be reprisal against the sponsor. However, handbills have traditionally received some first amendment protection, and it is possible that *Talley* will be limited to the handbill context.

<sup>126</sup> Federal Corrupt Practices Act of 1925 ch. 368, §§ 302-308, 43 Stat. 1070.

<sup>127</sup> Under prior law, candidates, political action committees, and other individuals participating in federal election campaigns had to maintain records of receipts and expenditures and file reports with the Senate or House. However, candidates for President and Vice President, intrastate committees, and individuals making only intrastate expenditures were excepted from the reporting requirements. Also, the reporting requirements did not apply to primaries.

<sup>128</sup> Election Act § 104(a)(1)(B).

<sup>129</sup> The veto message is reported in 116 Cong. Rec. 218724 (1970).

<sup>130</sup> *See* text accompanying notes 85-99 *supra*.

<sup>131</sup> Senate Hearings 381 (statement of Dr. Frank Stanton, President of CBS), at 416 (statement of Julian Goodman, President of NBC), and at 420 (statement of Leonard H. Goldenson, President of ABC). The three network presidents took the same position.

<sup>132</sup> *See* text accompanying notes 130-134 *supra*.

<sup>133</sup> *Dandridge v. Williams*, 397 U.S. 471, 487 (1970).

<sup>134</sup> Election Act § 104(b).

These characteristics of the broadcast media obviously do not lend support to the constitutionality of limitations on non-broadcast media. This is demonstrated by the Supreme Court's opinion in *Red Lion Broadcasting Co. v. FCC*,<sup>122</sup> where the Court relied heavily upon the natural limitations of the broadcast media—limitations admittedly not present in the print media—to support the constitutionality of the fairness doctrine in broadcasting.<sup>123</sup> If this distinction is significant in determining the constitutionality of the fairness doctrine which promotes use of the media for political purposes, it would appear to be even more significant in determining the constitutionality of a provision in the 1971 Act which limits use of the media for political purposes.<sup>124</sup>

In considering the constitutionality of the limitation upon expenditures for use of the broadcast media, it is essential to note that the election process can be unduly influenced by unlimited political advertisement in the print media, and to limit the use of broadcasting alone would simply serve to divert funds to the print media.

Even if the limitation of expenditures for political advertising in the print media should be held unconstitutional, it should not affect the validity of the limitation on use of broadcasting for political purposes. Broadcasting holds a unique place and is distinguishable.

It has been suggested that "spot" political broadcasts which are too brief to present a political issue and are often used to draw an image of the candidate which may be the opposite of his true political character, should be prohibited.<sup>125</sup> Although there have been attempts in recent elections to use such spot political announcements to influence voting on emotional rather than reasonable bases, some candidates may be able to reach the electorate only through spot broadcasts, and a candidate should be free to choose that format which best suits his political style. Government regulation, such as the equal opportunities and fairness doctrines in broadcasting, that increases the opportunity to speak in the exercise of self-government, implements the first amendment.<sup>126</sup> However, regulation which prohibits a form of speech, such as a spot political broadcast, raises a serious constitutional question.<sup>127</sup>

#### D. Disparate Treatment of Major, Minor and New Parties

In a political campaign, a broadcaster who grants the use of a station to a candidate for political purposes must grant equal opportunity to opposing candidates. Outside the campaign context, if an elected official or prospective candidate is granted time on a station to discuss a controversial issue of public importance, reasonable time must be granted to an appropriate spokesman for the opposing point of view.<sup>128</sup> The constitutionality of such regulation of broadcasting is well established.<sup>129</sup> Since licensees are granted free use of the publicly-regulated broadcast channels for profit, it is clear that Congress could require

<sup>122</sup> 395 U.S. 367 (1969).

<sup>123</sup> *Id.* at 386-90.

<sup>124</sup> On the other hand, it has been noted that, while in a theoretical sense the print media resource is unlimited, practically, however, the print media are limited. Monopoly in the print media has been developing rapidly in recent years. In part, this is a product of the competition between the broadcast media and the print media. In 1967, in the entire United States, there were only sixty-four cities which had competing daily newspaper ownerships; in seventeen states there were no competing daily newspapers in any city. In only twenty-six states was there more than one city in which daily newspaper ownerships competed, and in only three cities in the United States did more than two daily newspaper ownerships compete. See B. Rucker, *The First Freedom* (1968); reviewed by Barrow, 18 *NYLF* 209 (1969).

In these circumstances, a reasonable case might be made for limiting the amount of money which a candidate may spend on political advertising in newspapers, for making such limitation enforceable by requiring the newspaper to obtain the consent of the candidate prior to carrying the political advertisement, and even for requiring that newspapers give equal opportunity to opposing political candidates to place political advertisements in the newspaper.

<sup>125</sup> *Senate Hearings* 588-92.

<sup>126</sup> Barrow, *supra* note 47, at 502-09. Compare *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969) (upholding the constitutionality of the fairness doctrine in broadcasting), with *Weaver v. Jordan*, 64 Cal. 2d 273, 411 P. 2d 289, 49 Cal. Rptr. 537, *cert. denied*, 385 U.S. 844 (1966) (California's statute prohibiting pay television invalidated as an abridgment of free speech).

<sup>127</sup> See *Mills v. Alabama*, 384 U.S. 214 (1966) (statute that prohibited newspapers from carrying in the election day issue editorials on issues being voted upon held unconstitutional); Federal Communications Commission Memorandum of the General Counsel on the Legality of Establishing Minimum Time Durations for Political Broadcasts, in *Senate Hearings* 588-91.

<sup>128</sup> See text accompanying notes 46-48 *supra*.

<sup>129</sup> Barrow, *supra* note 47, at 505-83; and *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969).

broadcasting stations to grant free time to political candidates as a condition to awarding the use of the public channel.<sup>120</sup> Indeed, Congress could establish "open mike" broadcasting, allocate particular channels exclusively for political purposes, or license channels for partial use by the broadcaster - the remainder of the time being reserved for political purposes.<sup>121</sup> The United States licenses the airwaves for use by broadcasters who are under a duty to serve the public interest.

Television is the paramount medium for conducting political campaigns today and it has a unique impact on the electorate. The licensing and regulation of broadcasting gives government a strong hand in the functions of broadcasters and it may well be that government cannot permit broadcasters to discriminate in granting access to broadcasting for political purposes.<sup>122</sup> The Senate version of the Federal Election Campaign Act of 1971 would have repealed the equal time requirement of section 315 of the Communications Act insofar as it applied to federal elective office.<sup>123</sup> The Act as finally passed does not repeal the requirement. Although the Senate bill would have discouraged favoritism by broadcasters in granting access to the station for political purposes by making willful or repeated refusal of reasonable access a ground for denial of a license to broadcast,<sup>124</sup> repeal of the equal time requirement would have raised a substantial constitutional issue. For years, there has been a strong campaign by networks and broadcasters to repeal section 315. The reason given is that networks and stations cannot sell time or grant free time if the number of candidates for an office is large and all are entitled to equal time.<sup>125</sup> This suggests that if section 315 is ever repealed, it is unlikely that broadcasters can be counted upon to provide a practical opportunity for new parties to emerge and minor parties to challenge the major parties in elections. If such a practical opportunity is not provided, issues of denial of freedom of speech and assembly for political purposes and denial of equal protection of the laws would arise.

In 1968, the author of this article proposed a differential equality of access approach to regulation of the use of broadcasting for political purposes.<sup>126</sup> Candidates were classified major, minor or evolving, depending upon support by the electorate as evidenced by the vote for their party in the preceding campaign or by petitions: a major party was one that received three percent of the popular vote; a minor party was one that received one percent of the popular vote or obtained signatures of one-half percent of persons of voting age, and an evolving party was any other party or candidate. The proposal called for the grant of free prime time for campaign purposes during the eight weeks preceding the election. Both as to free time and purchased time, the differential was as follows. Major candidates were accorded equal time as between members of the class, half time being granted to minor candidates but no time required to be given to evolving candidates. If a broadcaster gave a minor candidate time, other minor candidates were accorded equal time, half time being granted major candidates, but no time being required to be given to evolving candidates. The broadcaster could grant time to an evolving candidate without being required to grant any time to major or minor candidates. For example the broadcaster could use the panel format for evolving candidates, which makes the accommodation of substantial numbers of candidates practical. In 1969, the Twen-

<sup>120</sup> Section 315 of the Communications Act requires that broadcasters which grant the use of the station to a political candidate for political purposes must grant equal time to opposing candidates. 47 U.S.C. § 315 (1970). Similarly the FCC's rules applying the fairness doctrine to political editorials and personal attacks require the broadcaster to grant free time to reply. These requirements were held constitutional in *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969).

<sup>121</sup> *Barrow*, *supra* note 47, at 512-13.

<sup>122</sup> Petition of Edmund G. Brown Jr. to the Federal Communications Commission Regarding Issuance of a Rule Requiring Television Licensees to Afford Reasonable Opportunity to Legally Qualified Candidates for Statewide Public Office to Present their Views on Issues of Public Importance, published in *Hearings on H.R. 8687-88 Before the Subcommittee on Communications and Power of the House Comm. on Interstate and Foreign Commerce*, 92d Cong., 1st Sess., ser. 92-18, at 119-36. A. Rosenthal, *supra* note 67, at 55-57. *Barrow*, *Access to the Press—A New First Amendment Right*, 80 Harv L. Rev. 1641, 1672-73 (1967). Emerson, *Toward a General Theory of the First Amendment*, 13 Yale L.J. 877, 878-86 (1903).

<sup>123</sup> H.R. 862, 92d Cong., 1st Sess. § 101(a) (1971).

<sup>124</sup> *Id.* § 101(c).

<sup>125</sup> *Barrow*, *supra* note 47, at 490-84.

<sup>126</sup> *Id.* at 533-42. For a favorable analysis of the proposal, see Alexander, *Communications and Politics: the Media and the Message*, 34 Law & Contemp. Prob. 265, 274-75 (1969).

tieth Century Fund Commission on Campaign Costs in the Electronic Era adopted a similar proposal.<sup>120</sup>

It is essential in a representative democracy that all serious candidates have an opportunity to present themselves and their ideas and that electorate have an opportunity to see and to hear the candidates. Whether governmental assistance be in the form of a grant of campaign funds or grant of free time on broadcasting stations or both, the problem of giving the electorate an opportunity to evaluate the serious candidates will be aggravated by a great increase in the number of nominal candidates. It is not practical to treat every nominal candidate equally; to attempt this would simply deny the electorate an opportunity to reach a sound judgment on the serious candidates. It is necessary to balance the electorate's interest in a viable election process against the right of individual candidates and their supporters, however small, to engage in the election process. If government regulates access to television for political purposes or campaign funding in a manner which assists, rather than restrains, new parties and evolving candidates, while providing such greater assistance to established parties as may be necessary to give the electorate a reasonable opportunity to evaluate the candidates and platforms, the disparity should withstand constitutional attack. However, if government so favors the major parties that minor parties have no reasonable opportunity to grow and to compete, and the new parties have no opportunity to evolve, then such control would be unconstitutional. The analytic approaches to this constitutional problem, based upon the first amendment and equal protection, will now be considered.

At first blush, it may seem that so long as government grants some assistance to a minor or new party, there are no issues of freedom of speech or assembly even though major parties are granted greater assistance. However, by regulating access to the broadcast media, by requiring that candidates be given free television time and grants of campaign funds, or by collecting and allocating taxes designated by the taxpayer for support of the election process, government can affect substantially the opportunity of candidates to communicate with the electorate. To the extent that government favors some candidates and parties over others, government limits the opportunity of the less favored to compete for the eye and ear of the electorate.

The *Red Lion* case, which upheld the fairness doctrine in broadcasting against attack on first amendment grounds, emphasized that

[I]t is the right of the viewers and listeners, not the right of the broadcasters, which is paramount. . . . It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by Government itself or a private licensee. . . . "[S]peech concerning public affairs is more than self-expression; it is the essence of self-government." . . . That right may not be constitutionally abridged either by Congress or by the FCC.<sup>121</sup>

In testing the constitutionality of governmental support of the election process, the Supreme Court will likely take this first amendment approach. Indeed, in later cases involving the regulation of the election process, the Supreme Court has focused upon the balancing of the power of Congress to protect the integrity of the election process and the impingement of regulation on first amendment rights.<sup>122</sup>

In the case of state statutes which favor some political parties over others, the Supreme Court has followed an equal protection approach in testing constitutionality. In *Williams v. Rhodes*,<sup>123</sup> the Supreme Court held that state legislation which gives the two major parties an advantage over minor parties in getting candidates

<sup>120</sup> The Twentieth Century Fund, Voters' Time, Report of the Twentieth Century Fund Commission on Campaign Costs in the Electronic Era, at 20-27 (1971). The Commission was chaired by Newton N. Minow, former chairman of the FCC.

<sup>121</sup> *Red Lion Broadcasting Co. v. FCC* 395 U.S. 367 (1969).

<sup>122</sup> See *United States v. CIO*, 335 U.S. 106 (1948), discussed in text accompanying notes 88 and 89 *supra* (first amendment issue carefully avoided); *United States v. Auto Workers Union*, 352 U.S. 567 (1957), discussed in text accompanying notes 90-93 *supra* (majority avoided the first amendment issue but the dissent would have met it); and *United Public Workers of America v. Mitchell*, 330 U.S. 75 (1947), discussed in text accompanying notes 94-99 *supra* (first amendment issue was a major one).

<sup>123</sup> 393 U.S. 23 (1968).

on the ballot violates equal protection of the laws guaranteed by the fourteen amendment. However, the Court observed that the infringement also violated the first amendment right of association which is protected by the fourteenth amendment from encroachment by the states.<sup>120</sup> Through reverse incorporation of the fourteenth amendment into the fifth amendment, other applications of the equal protection clause could be applied to disparate treatment by the Congress of political parties and candidates in federal elections. Reverse incorporation was practiced in *Hollings v. Sharpe*,<sup>121</sup> a companion case to *Brown v. Board of Education*. In *Brown*, the Supreme Court held racial segregation in state public education unconstitutional denial of equal protection of the laws under the fourteenth amendment. In *Hollings*, the Supreme Court held that racial segregation in public schools of the District of Columbia denied Blacks due process guaranteed by the fifth amendment. The Court explained:

In view of our decision that the Constitution prohibits the states from maintaining racially segregated public schools, it would be unthinkable that the same Constitution would impose a lesser duty on the Federal Government. We hold that racial segregation in the public schools of the District of Columbia is a denial of the due process of law guaranteed by the Fifth Amendment to the Constitution.<sup>122</sup>

Whether state legislation denies equal protection has usually been tested by the standard that the classification must be "rationally based and free from invidious discrimination."<sup>123</sup> However, the Supreme Court has indicated that in some areas such as political activity, a narrower test would be used:

It is true that this Court has established the principle that the Equal Protection Clause does not make every minor difference in the application of laws to different groups a violation of our Constitution. But we have also held many times that "invidious" distinctions cannot be enacted without a violation of the Equal Protection Clause. In determining whether or not a state law violates the Equal Protection Clause, we must consider the facts and circumstances behind the law, the interests which the State claims to be protecting, and the interests of those who are disadvantaged by the classification. In the present situation the state laws place burdens on two different, although overlapping, kinds of rights—the right of individuals to associate for the advancement of political beliefs, and the right of qualified voters, regardless of their political persuasion, to cast their votes effectively. Both of these rights, of course, rank among our most precious freedoms.<sup>124</sup>

Whether the first amendment or equal protection of the laws analysis is used, certain conclusions can be drawn. If government through subsidy, tax incentive, or regulation of access to broadcasting for political purposes, favors major parties over minor and new parties, such governmental action may be unconstitutional unless the disparity achieves a reasonable balance between the need of the electorate to have access to serious candidates and the need for new parties to emerge and minor parties to have an opportunity to compete with major parties. If the amount of assistance granted minor and new parties is so small in comparison with that granted to major parties that the minor and new parties cannot grow and compete, freedom of speech and assembly for political purposes is inhibited. Finally, if the floor for qualifying for governmental assistance is set so high that minor and new parties are effectively excluded from the assistance granted to major parties, the restraint on participation in representative democracy may run afoul of the Constitution.

<sup>120</sup> *Id.* at 30-31.

<sup>121</sup> 347 U.S. 497 (1954).

<sup>122</sup> 347 U.S. 483 (1954).

<sup>123</sup> 347 U.S. 497, 500 (1954). Compare *Hurd v. Hodge*, 334 U.S. 24, 35-36 (1948) (courts of the District of Columbia not permitted to enforce racial covenants restricting the conveyance of real estate to Blacks), with *Shelley v. Kraemer*, 334 U.S. 1 (1948) (state court not permitted to enforce racial covenants because of the equal protection clause). See also *Richardson v. Belcher*, 401 U.S. 935 (1971), in which a federal statute reducing the social security benefits by the amount of workmen's compensation provided by state law was upheld, the Supreme Court observing that a classification which meets the equal protection of the laws standard of the fourteenth amendment "is perforce consistent with the due process requirements of the Fifth Amendment." *Id.* at 257.

<sup>124</sup> *Williams v. Rhodes*, 393 U.S. 23, 30 (1968).

<sup>125</sup> *Id.*



### *B. Governmental Subsidies and Tax Incentives*

Governmental subsidy of elections and other incentives have been proposed for many years.<sup>127</sup> The proposals have taken the form of direct government subsidy, free use of the mails and broadcast media, and tax incentives. The simplest way to assure sufficient funds to sustain a meaningful political dialogue and avoid undue influence by the wealthy or other special interests would be for government to provide the necessary funds and to prohibit private contributions. This was proposed by President Theodore Roosevelt, and other high officials have repeated the suggestion.<sup>128</sup> Puerto Rico subsidizes elections, but the legality of the program has not been tested.<sup>129</sup> A direct subsidy of elections in Colorado was held unconstitutional, although the Colorado Supreme Court did not write an opinion.<sup>130</sup> Also, a direct subsidy in Massachusetts was invalidated on the unsound ground that expenditure of state funds by political parties or candidates is not a public purpose.<sup>131</sup> The amount of the subsidy in the Massachusetts case was based upon the vote received by each party in the preceding election. Since the Democratic Party had received 80 percent of the vote, one party would have received 80 percent of the subsidy. Such disparate governmental treatment would tend to establish one dominant political party, and would clearly violate the equal protection clause in light of the later Supreme Court decision in *Williams v. Rhodes*.<sup>132</sup> On the other hand, a governmental subsidy of political elections based upon the voter support of the party or candidate and reasonably graduated so as to assure opportunity for new parties to emerge, minor parties to compete, and major parties to present their platforms and candidates to the electorate should be constitutional.<sup>133</sup>

It is important to note that the tax credit and deduction provisions contained in the 1971 Revenue Act are not direct subsidies, but tax incentives to encourage contributions to the election process.<sup>134</sup> The taxpayer is permitted to take a tax credit or a deduction from taxable income in a limited amount for political contributions. The practice of permitting tax credits and deductions from taxable income for public interest reasons is well established. Well-known examples are contributions to charitable and religious organizations, state and local taxes, and petroleum and natural mineral deposits depletion. Minnesota and California have enacted similar statutes permitting deduction of political contributions from taxable income for state income tax purposes.<sup>135</sup>

A closer question arises with regard to sections 801 and 802 of the Revenue Act of 1971, the new President Election Campaign Fund Act. This statute provides that the taxpayer may designate that one of his tax dollars shall be paid into the fund for distribution to the party of his choice.<sup>136</sup> If the taxpayer designates the party, the transaction may be equated with a tax credit. However, if the designation is to the nonpartisan account and the administrator of the fund allocates the contribution to the party which has a deficiency in the amount for which it qualifies, the transaction approximates a direct subsidy by government. Nevertheless, designation of the nonpartisan account should pass the test of constitutionality. The purpose of the legislation is to encourage citizens of relatively small means to support representative democracy. The interest of the citizen in his government and its integrity is likely to grow when he contributes to the election process. Moreover, encouraging many small contributions reduces the need for large ones and thus ameliorates the influence of large contributions on the political process.

One of the most difficult constitutional issues raised by the new tax incentive and allocation provisions is the favorable treatment of the two major parties vis-a-vis a third party and the relatively high popular vote which a new party must attract in order to qualify for a subsidy.<sup>137</sup> The allocation formula is drawn

<sup>127</sup> For a history of the effort to secure subsidization of the election process in the United States, see A. Heard, *supra* note 3, at 421-64; Lobel, *supra* note 20, at 57-60.

<sup>128</sup> A. Heard, *supra* note 3, at 421.

<sup>129</sup> H. Wells, *Government Financing of Political Parties in Puerto Rico* (1961).

<sup>130</sup> *People v. Galligan*, No. 7323, Colorado Supreme Court, October 10, 1910.

<sup>131</sup> *Opinion of the Justices*, 337 Mass. 800, 197 N.E. 2d 691 (1964).

<sup>132</sup> 383 U.S. 24 (1966), discussed in text accompanying notes 125-134 *supra*.

<sup>133</sup> Lobel, *supra* note 20, at 57-61, concludes that a governmental subsidy may be the only effective way to render political parties a representative instrument of democracy.

<sup>134</sup> For a discussion of these provisions, see text accompanying notes 62 and 63 *supra*.

<sup>135</sup> Minn. Stat. Ann. § 290.21 (Supp. 1971); Cal. Rev. & Tax Code § 17234 (West 1970); A. Heard, *supra* note 3, at 445.

<sup>136</sup> For a discussion of the Presidential Election Campaign Fund Act, see text accompanying notes 60-61 *supra*.

<sup>137</sup> *Id.*

in such a way that it is highly unlikely that more than two parties will qualify as major, that is, receive 25 percent or more of the popular vote, and that more than one party will qualify as minor, that is, receive more than 5 percent of the vote. If the standard were lowered to 3 percent of the popular vote to qualify as a major party and 1 percent to qualify as a minor party, the results from 1944 through 1968 would have been as follows. There would have been two major parties in all presidential elections, except in 1968, when the American Independent Party received approximately 12 percent of the popular vote; and only three minor parties, the American Labor Party in 1944 and the States Rights Democratic Party and the Progressive Party in 1948. However, under the standard used in the new statute, during the presidential election years from 1944 through 1968, there would have been only two major parties, the Democratic and Republican, and only one minor party, the American Independent Party. It may well be that the new statute so favors the two major parties and discourages the entry of new parties that it offends the Constitution. On the other hand, it is not feasible to treat established parties and all new parties equally, for such a policy would generate a plethora of splinter parties. However, a less rigorous test for major, minor and new parties would have helped the legislation pass the constitutional test.

#### IV. SUGGESTED CHANGES IN THE EXISTING AND PROPOSED LAWS

The new Presidential Election Campaign Fund Act and the Federal Election Campaign Act of 1971 raise substantial constitutional issues. This section suggests a few practical changes in the legislation not only to insure their constitutionality, but also to increase their effectiveness.

The Presidential Election Campaign Fund Act heavily favors major parties—the Democratic and Republican Parties—over minor and new parties having relatively small voter support.<sup>147</sup> The practical effect of the Act is to assure that the Democratic and Republican Parties have funds to conduct an adequate presidential election campaign, to limit the opportunity of minor parties to compete with major parties, and to hinder the entry of new parties. New parties, recognizing the impracticality of mustering 5 percent of the popular vote, may not be inclined to run candidates against candidates of major parties supported by large campaign chests allocated by government from tax funds. On the basis of presidential election history, a minor party which qualifies for governmental support will attract little more than 5 percent of the total popular vote and, thus, will qualify for only a small fraction of the support granted to the two major parties.

The vulnerability of the statute to constitutional attack<sup>148</sup> could be ameliorated by lowering the percentage of votes required for new parties to receive assistance and increasing the amount granted to minor parties. Major party should be defined as a party which attracted 5 percent or more of the popular vote in the preceding presidential election, and minor party defined as one which received at least 1 percent of the popular vote or, in the case of new parties, obtained a comparable number of signatures by persons of voting age.<sup>149</sup> A new party should

<sup>147</sup> The statute is described in the text accompanying notes 59–61 *supra*.

<sup>148</sup> The constitutional issue is discussed in the text accompanying note 145 *supra*. The constitutional vulnerability of a statute, such as the Presidential Election Campaign Fund Act, which favors the Democratic and Republican Parties over others has been emphasized by the Supreme Court in *Williams v. Rhodes*. The Court stated:

There is, of course, no reason why two parties should retain a permanent monopoly on the right to have people vote for or against them. Competition in ideas and governmental policies is at the core of our electoral process and of the First Amendment freedoms. New parties struggling for their place must have the time and opportunity to organize in order to meet reasonable requirements for ballot position, just as have the old parties in the past.

393 U.S. 23, 32 (1969). The relevance of this statement to a scheme of financial support of elections which favors the Democratic and Republican Parties over other parties is obvious.

<sup>149</sup> Under the suggested definitions of major parties and minor parties, it is unlikely that a large number of splinter parties would emerge. During the seven presidential elections from 1944 through 1968 except for the Democratic and Republican Parties, there was only one party in one election, the American Independent Party in 1968, which received more than 5 percent of the popular vote. The tax incentive is some inducement to growth of a third major party. However, that is unlikely if the Democratic and Republican Parties offer meaningful alternatives to the electorate. A substantial third party emerges only in periods when the two party system tends to become a Tweedledum-Tweedledee system. But when this happens, it is important that a third party have the opportunity to compete. If new parties not qualifying in the election as minor parties receive, as suggested above, only those sums designated by taxpayers for the account of the new parties, no great number of new parties will emerge because of the high cost of a nationwide political campaign.

be able to qualify for assistance if it obtains signatures of persons of voting age on petitions in a number which assures that the tax dollars earmarked by that number of voters justify the cost of the identification and accounting involved in administering the tax incentive program. A new party which qualifies under this de minimis administrative cost rule should receive all tax dollars designated for allocation to the new party regardless of the number of votes which it ultimately musters in the presidential election. Also, if the new party receives at least 1 percent of the popular vote in the election, it should receive such additional sum as would equal the support which it would have received if it had qualified as a minor party prior to the election. Likewise, the amount of financial support to minor parties should be greater than that provided in the statute. The territorial dimensions of a presidential campaign require a substantial campaign chest if the contest is to be more than a campaign in name only. Accordingly, a minor party should receive no less than one-third of the sum granted to each major party. Major parties, as the statute now provides, should receive equal grants.

Neither the Presidential Election Campaign Fund Act nor the Federal Election Campaign Act of 1971 provides for the grant of free broadcast time for political purposes. The tax incentive provided in the Revenue Act of 1971 would be more effective if it were supplemented with a statutory requirement that broadcasters provide a reasonable amount of free time during the eight weeks preceding the presidential election. Such free time could be allocated among candidates of major, minor and new parties in much the way that the fund designated by taxpayers for political campaigns is allocated.<sup>100</sup> In a free television time statute, differential access standards would encourage new parties and give minor parties an opportunity to compete with major parties.

The Federal Election Campaign Act of 1971 leaves intact the equal time requirement of section 315 of the Communications Act of 1934. This requirement, with appropriate modification, is essential to our political process. Television is the medium having greatest impact on the election process, and broadcasters should not be able to grant broadcast time to favored candidates and deny time to their opponents. It is not sufficient, as the Senate version of the Act would have provided, to consider in renewal proceedings the willful and repeated denial of broadcast time to a political candidate.<sup>101</sup> The FCC rarely denies a license for renewal and, even if it did, this would not right the wrong to the defeated candidate who was denied access to broadcasting. Moreover, the equal time requirement, as presently applied, is inadequate in requiring that every nominal candidate, regardless of voter support, be granted equal time. An amendment of section 315 providing differential equality of access to broadcasting, on the basis of whether the candidate is major, minor or evolving, would be more practical. Until this is done, the effort of the television networks to repeal the equal time requirement will continue.

The Federal Election Campaign Act raises a substantial constitutional issue in that it limits the amount that can be spent for political advertising in the print media and prohibits the print media from printing a political advertisement without obtaining the candidate's certification that payment will not violate any spending limit.<sup>102</sup> The overall limitation upon expenditures for use of the communications media would have been strengthened by an exemption for small individual expenditures for advertisements in newspapers. An individual expenditure of less than \$100 by a voter to express his view in a newspaper advertisement is unlikely to result in the buying of elections. Also, if no more than a dozen persons form an ad hoc committee, pool their contributions of not more than \$50 each, and purchase a political advertisement in a newspaper, it is unlikely that the laudable purposes of the Federal Election Campaign Act would be significantly undermined. Such a modification in the statute would go far in solving the constitutional problem by reserving a reasonable area for political expression through the individual's choice of a newspaper advertisement. Adoption of the suggested modifications would not require any change in the reporting requirements. Small sums expended under the suggested modifications would be in addition to the maximum expenditure for political use of media now specified in the statute.

<sup>100</sup> See text accompanying notes 125 and 126 *supra* for one proposed plan.

<sup>101</sup> The Senate bill and other aspects of the equal time requirement are discussed in the text accompanying notes 120-123 *supra*.

<sup>102</sup> Election Act §§ 104(a) and 104(b). For a discussion of the constitutional issues involved in placing limitations upon the print media, see text accompanying notes 110-113 *supra*.

spent an average of thirty-two cents for each of the sixty-eight million votes cast.<sup>13</sup> In 1964, the more than seventy million ballots each cost forty-one cents.<sup>14</sup> By 1968, the figure rose to fifty-six cents for each vote cast for the two major candidates. If George Wallace's expenditures and votes are included, each vote in the 1968 election cost sixty-seven cents.<sup>15</sup>

The phenomenon of spiralling expenditures is by no means unique to presidential campaigns. "In recent congressional elections, some candidates for the House of Representatives have spent as much as a quarter of a million dollars, and some candidates for the Senate have spent as much as five million dollars."<sup>16</sup> A recent survey shows that in their last campaign prior to 1970, approximately seventy percent of our Senators spent over \$100,000 each, and thirty percent of our representatives spent over \$60,000 each.<sup>17</sup> In 1970, spending for all Senate, House, and gubernatorial races was approximately \$200 million, a record for a non-presidential year.<sup>18</sup>

The first danger posed by unlimited campaign spending is that our system will lose able candidates. One of the most persistent tenets of our political society is belief in the openness of our political system. The "log cabin" image, the belief that "anybody can be President", and the unpopularity of class politics reflect the egalitarian orientation of many Americans.<sup>19</sup> But today the ablest citizens may be dissuaded from seeking elective office because of the soaring costs of campaigns and the obligations, real or imaginary, which large contributions may entail.<sup>20</sup>

To the extent that spiralling campaign expenses render public elective office the exclusive preserve of wealthy or well-financed candidates, the very basis of our form of government would be undermined.<sup>21</sup> The question is not whether wealthy political representatives can provide dedicated and compassionate leadership. Rather, the point is that each citizen should have an equal opportunity to participate in the electoral process.<sup>22</sup> The rationale for an open political system was given classic expression by John Stuart Mill:

We need not suppose that when power resides in an exclusive class, that class will knowingly and deliberately sacrifice the other classes to themselves: It suffices that in the absence of its natural defenders, the interest of the excluded is always in danger of being overlooked: and, when looked at is seen with different eyes from those of the person whom it directly concerns.<sup>23</sup>

The second danger of unrestricted campaign expenditures is favoritism and improper influence. As expenditures have continued to rise, candidates have found greater difficulty in relying upon a broad base of small contributions.<sup>24</sup> As large donations become more important,<sup>25</sup> the danger that some candidates will become controlled by their major supporters increases.

Less direct influence also poses problems. Favoritism may constitute a breach of popular trust little short of fraud in many instances.<sup>26</sup> The larger claim of

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> 1970 *Hearings* 41 (statement of R. Hemenway, National Director, Nat'l Comm. for an Effective Congress).

<sup>16</sup> Harris, *Annals of Politics: A Fundamental Home*, The New Yorker, Aug. 7, 1971, at 81.

<sup>17</sup> Association of the Bar of the City of New York, Report of the Special Committee on Congressional Ethics ch. 4 (1970), reported in 1970 *Hearings* 40.

<sup>18</sup> 117 Cong. Rec. 82146 (daily ed. Mar. 1, 1971) (remarks of Senator McGovern).

<sup>19</sup> See M. Jewell & S. Patterson, The Legislative Process in the United States 101 (1966).

<sup>20</sup> *E.g.*, 1970 *Hearings* 31 (statement of Eugene Nickerson, County Executive, Nassau County, N.Y.).

<sup>21</sup> *Cf.* 1970 *Hearings* 76 (statement of Everett Erick, Group Vice-President and General Counsel, American Broadcasting Co.): Time Nov. 29, 1971, at 14. "It takes a rich man—or a man with rich friends—to run a serious campaign for high office." For historical perspective on the relative openness of the American political system, see H. Carman, H. Syrett & B. Wisby, 1 A History of the American People 150 (1961); M. Jewell & S. Patterson, The Legislative Process in the United States 101 (1966).

<sup>22</sup> *See also* Reynolds v. Sims, 377 U.S. 523 (1964).

<sup>23</sup> J. S. Mill, *That the Ideally Best Form of Government is Representative Government*, in *Considerations on Representative Government* ch. III (1875).

<sup>24</sup> *Cf.* 117 Cong. Rec. 82414 (daily ed. Mar. 4, 1971) (remarks of Senator Kennedy); *id.* at 81915 (daily ed. Feb. 25, 1971) (remarks of Senator Scott).

<sup>25</sup> *Cf.* Cong. Q., Oct. 2, 1970, at 2417; Cong. Q., Sept. 18, 1970 at 2290.

<sup>26</sup> Senate Comm. on Commerce, Federal Elections Campaign Act of 1971, Rep. No. 92-96 92d Cong., 1st Sess. 77 (1971) [hereinafter cited as 1971 *Senate Report*] (supplemental views of Senator Hart): "[E]very administration's list of ambassadors has contained names of campaign contributors whose principal distinction appeared to be the size of the contribution." *Cf.* Time Nov. 29, 1971 at 14. "Rich backers usually demand a *quid pro quo*—or try to. In 1968, Stewart Mott, son of the largest stockholder of General Motors' directors, offered to provide Hubert Humphrey with badly needed cash if the candidate would change his views on Viet Nam. Humphrey refused. Last August, dairy farmers contributed some \$250,000 to the Republican Party—after the Agriculture Department reversed its policy and raised the support price for milk."

## FREE SPEECH IMPLICATIONS OF CAMPAIGN EXPENDITURE CEILING

The dramatic increase in campaign spending in recent years<sup>1</sup> has led to numerous congressional proposals<sup>2</sup> for regulation of political expenditures. Disclosure requirements,<sup>3</sup> tax subsidies,<sup>4</sup> contribution limits,<sup>5</sup> and direct government financial assistance<sup>6</sup> have been suggested to solve the problems of escalating campaign expenses. Two current laws, the Corrupt Practices Act of 1925<sup>7</sup> and the Hatch Act of 1940,<sup>8</sup> impose ineffective<sup>9</sup> spending limitations.

The expenditure ceilings recently proposed in two measures, S. 3637, the campaign bill vetoed by President Nixon in 1970,<sup>10</sup> and S. 382, the principal 1971 legislation,<sup>11</sup> provide models for discussion of the first amendment issues raised by campaign spending limit legislation. The S. 3637 spending limitation applies only to broadcast media expenditures, while the 1971 measure includes non-broadcast expenditures. Both bills utilize a congressionally-determined maximum spending level stated as either the greater of a fixed-minimum dollar figure, or a figure that is the product of a cents-per-voter factor and a factor reflecting the size of the electorate.<sup>12</sup> Candidates are therefore aware of their particular spending limits in advance of elections.

The ceilings in both S. 3637 and S. 382 apply to all expenditures made by or on behalf of a legally qualified candidate.<sup>13</sup> To enforce this provision, both measures prohibit an advertising medium from charging for political announcements unless the candidate's representative has certified that the cost of the advertisement will not violate the applicable spending ceiling.

The expenditure limitations in S. 3637 and S. 382 are directed toward the same general problem: the dangers to the political process resulting from a rapid escalation in campaign costs. When President Eisenhower won his second term in 1956, each vote cost nineteen cents.<sup>14</sup> By 1960, candidates Kennedy and Nixon

<sup>1</sup>Hearings on H.R. 12751, *U.R. 12720*, H.R. 12751, H.R. 12752, H.R. 12835, H.R. 14047, H.R. 14111, and S. 3637 before the Subcomm. on Communications and Power of the House Comm. on Interstate and Foreign Commerce, 91st Cong. 2d Sess. 93 (statement of Herbert Alexander, Director, Citizens Research Foundation), 99 (statement of Paul Comstock, Vice-President and General Counsel, Nat'l Assoc. of Broadcasters) (1970) [hereinafter cited as *1970 Hearings*]. See generally H. Alexander, Regulation of Political Finance (1966); J. Davis, Presidential Primaries: Road to the White House (1967); A. Heard, The Costs of Democracy (1960); Rochester, *The High Cost of Politics*, Trial, Dec-Jan 1967-68, at 32, 224 *Economist* 33 (1967); 213 *Economist* 240 (1964).

<sup>2</sup>S. 1, S. 9, S. 382, S. 402, S. 946, S. 1039, 92d Cong., 1st Sess. (1971); H.R. 824, H.R. 1441, H.R. 4086, H.R. 4340, H.R. 5087, H.R. 5088, H.R. 5089, H.R. 5090, H.R. 5091, H.R. 5092, H.R. 5093, H.R. 5094, H.R. 5095, H.R. 5096, H.R. 5097, H.R. 5098, 92d Cong., 1st Sess. (1971); S. 3637, 91st Cong., 2d Sess. (1970). For a summary of state campaign regulation statutes, see Council of State Governments, *The Book of the States* 23-45 (1968).

<sup>3</sup>S. 956, 92d Cong., 1st Sess. § 202 (1971); S. 1121, 92d Cong., 1st Sess. tit. III (1971); S. 382, 92d Cong., 1st Sess. tit. III (1971).

<sup>4</sup>S. 734, 91st Cong., 2d Sess. (1970); S. 956, 92d Cong., 1st Sess. §§ 501-03 (1971); S. 1121, 92d Cong., 1st Sess. § 101 (1971); Weaver, *Federal Tax Aid for Campaigning Voted by Senate*, N.Y. Times, Nov. 23, 1971, at 1, col. 3, *But cf. Survey Tax Incentives as a Device for Implementing Government Policy: A Comparison With Direct Government Expenditures*, 88 Harv L. Rev. 705 (1970).

<sup>5</sup>S. 956, 92d Cong., 1st Sess. §§ 104-06 (1971); S. 1121, 92d Cong., 1st Sess. 1201 (1971).

<sup>6</sup>See 224 *Economist* 33 (1967); Weaver, *Dole Backs Curb on Campaign Fund*, N.Y. Times, Mar. 5, 1971, at 18, col. 3.

<sup>7</sup>2 U.S.C. § 248 (1970).

<sup>8</sup>18 U.S.C. § 501, 60A *et seq.* (1970).

<sup>9</sup>E.g., H. Penniman & R. Winter, Jr., *Campaign Finances—Two Views of the Political and Constitutional Implications* 7 (1971); Oberdorfer, *The Purchase of Power*, Washington Post, Nov. 14, 1971, § 8, at 1, col. 1; Twentieth Century Fund, *Electing Congress—the Financial Dilemma* (1970), reported in 117 Cong. Rec. §1014 (daily ed. Feb. 23, 1971) (remarks of Senator Scott).

<sup>10</sup>S. 3637, 91st Cong., 2d Sess. (1970). See 115 Cong. Rec. §17401 (daily ed. Oct. 12, 1970); 60 *§18724* (daily ed. Nov. 23, 1970) (President's veto message).

<sup>11</sup>S. 382, 92d Cong., 1st Sess. (1971). A measure essentially similar to S. 382 was passed by the Senate in August, and by the House on Nov. 30, 1971. N.Y. Times, Dec. 1, 1971, 41, col. 4.

<sup>12</sup>Section 2(A) of S. 3637 used a factor stated as "the greatest number of votes cast for all legally qualified candidates for such office in the last preceding general election for such office." Sections 102 and 103(c) of S. 382 use a factor based upon "the estimate of resident population of voting age for such office as determined by the Bureau of the Census in June of the year preceding the year in which the election is held."

<sup>13</sup>S. 3637, 91st Cong., 2d Sess. § 2(A) (1970); S. 382, 92d Cong., 1st Sess. §§ 100(t)-03(c) (1971).

<sup>14</sup>H. McNell, *The People Machine: The Influence of Television on American Politics* 26 (1966).

spent an average of thirty-two cents for each of the sixty-eight million votes cast.<sup>15</sup> In 1964, the more than seventy million ballots each cost forty-one cents.<sup>16</sup> By 1968, the figure rose to fifty-six cents for each vote cast for the two major candidates. If George Wallace's expenditures and votes are included, each vote in the 1968 election cost sixty-seven cents.<sup>17</sup>

The phenomenon of spiralling expenditures is by no means unique to presidential campaigns. "In recent congressional elections, some candidates for the House of Representatives have spent as much as a quarter of a million dollars, and some candidates for the Senate have spent as much as five million dollars."<sup>18</sup> A recent survey shows that in their last campaign prior to 1970, approximately seventy percent of our Senators spent over \$100,000 each, and thirty percent of our representatives spent over \$50,000 each.<sup>19</sup> In 1970, spending for all Senate, House, and gubernatorial races was approximately \$200 million, a record for a non-presidential year.<sup>20</sup>

The first danger posed by unlimited campaign spending is that our system will lose able candidates. One of the most persistent tenets of our political society is belief in the openness of our political system. The "log cabin" image, the belief that "anybody can be President", and the unpopularity of class politics reflect the egalitarian orientation of many Americans.<sup>21</sup> But today the ablest citizens may be dissuaded from seeking elective office because of the soaring costs of campaigns and the obligations, real or imaginary, which large contributions may entail.<sup>22</sup>

To the extent that spiralling campaign expenses render public elective office the exclusive preserve of wealthy or well-financed candidates, the very basis of our form of government would be undermined.<sup>23</sup> The question is not whether wealthy political representatives can provide dedicated and compassionate leadership. Rather, the point is that each citizen should have an equal opportunity to participate in the electoral process.<sup>24</sup> The rationale for an open political system was given classic expression by John Stuart Mill:

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Less direct influence also poses problems. Favoritism may constitute a breach of popular trust little short of fraud in many instances.<sup>28</sup> The larger claim of

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

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<sup>18</sup> Harris, *Annals of Politics: A Fundamental Note*, The New Yorker, Aug. 7, 1971, at 87.

<sup>19</sup> Association of the Bar of the City of New York, Report of the Special Committee on Congressional Ethics ch. 4 (1970), reported in 1970 Hearings 40.

<sup>20</sup> 117 Cong. Rec. 82146 (daily ed. Mar. 1, 1971) (remarks of Senator McGovern).

<sup>21</sup> See M. Jewell & R. Patterson, *The Legislative Process in the United States* 101 (1966).

<sup>22</sup> *E.g.*, 1970 Hearings 81 (statement of Eugene Nickerson, County Executive, Nassau County, N.Y.).

<sup>23</sup> *Cf.* 1970 Hearings 76 (statement of Everett Erick, Group Vice-President and General Counsel, American Broadcasting Co.): Time, Nov. 29, 1971, at 14: "It takes a rich man—or a man with rich friends—to run a serious campaign for high office." For historical perspective on the relative openness of the American political system, see H. Carus, H. Syrett & B. Wisner, 1 *A History of the American People* 180 (1961); M. Jewell & R. Patterson, *The Legislative Process in the United States* 101 (1966).

<sup>24</sup> See also *Reynolds v. Sims*, 377 U.S. 523 (1964).

<sup>25</sup> J. S. Mill, *That the Ideally Best Form of Government Is Representative Government*, in *Considerations on Representative Government* ch. III (1875).

<sup>26</sup> *Cf.* 117 Cong. Rec. 82414 (daily ed. Mar. 4, 1971) (remarks of Senator Kennedy);

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<sup>27</sup> *Cf.* Cong. Q., Oct. 2, 1970, at 2417; Cong. Q., Sept. 18, 1970, at 2290.

<sup>28</sup> Senate Comm. on Commerce, Federal Elections Campaign Act of 1971, Rep. No. 92-86 92d Cong., 1st Sess. 77 (1971) [hereinafter cited as 1971 Senate Report] (supplemental views of Senator Hart): "[E]very administration's list of ambassadors has contained names of campaign contributors whose principal distinction appeared to be the size of the contribution." *Cf.* Time, Nov. 28, 1971, at 14: "Rich backers usually demand a quid pro quo—or try to. In 1968, Stewart Mott, son of the largest stockholder of General Motors' directors, offered to provide Hubert Humphrey with badly needed cash if the candidate would change his views on Viet Nam. Humphrey refused. Last August, dairy farmers contributed some \$250,000 to the Republican Party—after the Agriculture Department reversed its policy and raised the support price for milk."

some citizens on the attentions of an elected official conflicts with the representative concept of equal access to government decision-makers."

Because of these problems, citizens lose confidence in the democratic process. Russell Hemenway, National Director of the National Committee for an Effective Congress has observed that "national polls indicate that more than half the people in this country believe that politicians are dishonest and do not genuinely attempt to serve in the public interest."<sup>10</sup>

The difficult question is whether these dangers suffice to validate a spending limit in the face of a first amendment challenge. Although broad issues are raised by campaign spending ceilings, this Comment considers only the problems relating to constitutional protections afforded free speech. Many non-first amendment issues have been treated elsewhere.<sup>11</sup>

Thus, the Comment does not consider constitutional issues regarding the power of Congress to regulate elections under article I, section four or section five of the fourteenth amendment.<sup>12</sup> Issues of standing, ripeness, and political question<sup>13</sup> are also outside the scope of this discussion. Although the Comment raises many of the practical problems posed by expenditure limitations,<sup>14</sup> it considers them only in the context of free speech.

As a threshold question, the Comment analyzes the degree of first amendment protection afforded political advertising. It then discusses several general theories of first amendment protection and their application to political expenditure limitations. Following sections consider first amendment protection by categories, including the type of action and source of speech. This Comment concludes that although most spending limitations raise substantial first amendment questions, a carefully drafted and limited ceiling on certain expenditures may be consistent with overall free speech policies.

## 2. POLITICAL ADVERTISING AND THE FIRST AMENDMENT: A THRESHOLD QUESTION

The initial consideration in any discussion of the free speech implications of campaign spending ceilings is the degree to which political advertising is entitled to first amendment protection. The suggestion that the first amendment equally protects commercial advertising and non-commercial commentary is not readily accepted.

Regulation of commercial, or profit-motivated, advertising on the broadcast media has often been recommended. As early as 1922, the First Annual Radio Conference urged that "direct" or price advertising on the broadcast media should be prohibited.<sup>15</sup> During the mid-1930's the Federal Communications Commission repeatedly warned that advertising excesses and commercial material offensive to the listening audience might constitute grounds for license cancellation.<sup>16</sup> More recently cigarette advertisements have been banned from the broadcast media.<sup>17</sup>

Several Supreme Court decisions suggest profit-motivated advertising in non-broadcast settings may be subject to greater regulation than non-commercial speech. In *Martin v. Struthers*<sup>18</sup> and *Breard v. Alexandria*,<sup>19</sup> both dealing with regulation of door-to-door peddlers, the Court brought forth this commercial/non-commercial dichotomy, made explicit by dictum in *Valentine v. Chrestensen*:<sup>20</sup> "This court has unequivocally held that the streets are proper places for the exercise of the freedom of communicating information and disseminating opinion and that, though the states and municipalities may appropriately regulate the privilege in the public interest, they may not unduly burden or pro-

<sup>10</sup> See 1976 Hearings 40 (statement of R. Hemenway): "Ninety percent of all political funds are contributed by only one percent of the population." Cf. Lobel, *Federal Control of Campaign Contributions*, 51 Minn. L. Rev. 1, 13 (1966).

<sup>11</sup> 1976 Hearings 38 (statement of R. Hemenway).

<sup>12</sup> E.g., H. Penniman & R. Winter, Jr., *Campaign Finances*, supra note 9; A. Rosenthal, *The Greening of American Elections: Some Constitutional Questions Involved in the Regulation of Campaign Financing* (tent. draft 1971); Note, *Campaign Spending Regulation: Politics of the First Step*, 8 Harv. J. Legis. 640 (1971).

<sup>13</sup> For a discussion of these issues, see A. Rosenthal, supra note 31.

<sup>14</sup> See *id.*

<sup>15</sup> For a discussion of the practical problems, see Note, *Campaign Spending Regulation*, supra note 31. See also Time, Nov. 29, 1971, at 15.

<sup>16</sup> See *Head v. New Mexico Bd.*, 374 U.S. 424, 438 (1963) (Brennan, J., concurring).

<sup>17</sup> See *id.* at 438-40.

<sup>18</sup> *Matter of Television Station WCBS-TV* (Applicability of the Fairness Doctrine to Cigarette Advertising), 9 F.C.C. 2d 921 (FCC 1967), aff'd sub nom. *Banzaf v. FCC*, 405 F. 2d 1082 (D.C. Cir. 1968), cert. denied, 396 U.S. 842 (1969) [hereinafter referred to as *Matter of WCBS*].

<sup>19</sup> 219 U.S. 141 (1942) (Black, J.).

<sup>20</sup> 341 U.S. 622 (1951).

<sup>21</sup> 316 U.S. 52 (1942).

scribe its employment in these public thoroughfares. We are equally clear that the Constitution poses no such restraint on government as respects purely commercial advertising."<sup>42</sup>

An analogy exists between the *Valentine* activity, circulating an advertisement on the back of a protest leaflet to circumvent a New York law, and political advertising. Political announcements do have an informational element as well as a commercial or "selling of the candidate" factor. But even if the *Valentine* court had ruled that commercial or business advertising on a double-faced handbill is not protected by the first amendment, this view should be inapplicable to political advertising. If a distinction is to be made, the mere fact that political announcement may be purchased should not force it into a category of lesser protection; rather, the distinction should be between speech with a purpose which is substantially profit-motivated and that with a purpose which is largely informational or non-commercial.<sup>43</sup>

*New York Times Co. v. Sullivan*<sup>44</sup> supports this distinction. Sullivan alleged that he had been libeled by statements in a full-page advertisement carried by the Times. Speaking through Mr. Justice Brennan, the Court noted that unlike Christensen's leaflets, the *Sullivan* advertisement "sought financial support on behalf of a movement whose existence and objectives are matters of the highest public interest and concern." The Court held that "if the allegedly libelous statements would otherwise be constitutionally protected . . . they do not forfeit that protection because they were published in the form of a paid advertisement."<sup>45</sup> Any other conclusion would discourage newspapers and other media from carrying "editorial advertisements", thus eliminating an important source of commentary from the marketplace of ideas. This danger is especially strong with regard to persons who do not have free access to mass media.<sup>46</sup> Cases discussing the regulation of religious fund solicitation and the sale of religious books also support the distinction concerning paid advertisement directed toward a substantially non-commercial purpose.<sup>47</sup>

Political advertisement should have equivalent protection. Whether or not they are considered to be paid advertisements, the main object of political announcements is to publicize the political doctrines of candidates and parties. Therefore, these advertisements should be entitled to the same first amendment protections afforded wholly non-commercial speech.

## II. GENERAL PROTECTIONS AFFORDED FREE SPEECH

### A. Traditional standards

The right to espouse diverse ideas is an intrinsic characteristic of our democratic government.<sup>48</sup> But as Mr. Justice Brandeis observed, "although the rights of free speech and assembly are fundamental, they are not in their nature absolute."<sup>49</sup> Restriction of speech may be justified when necessary to preserve the peace, prevent the destruction of the state, or protect the lives, privacy, or property of its residents.

Variations of two standards traditionally have been used to test the validity of laws abridging speech: (1) the clear and present danger standard and (2) the balancing test.<sup>50</sup> A variation of the clear and present danger test, formulated

<sup>42</sup> *Id.* at 54.

<sup>43</sup> See generally Gardner, *Free Speech in Public Places*, 36 B.U.L. Rev. 239, 250 (1966); *Developments in the Law—Deceptive Advertising*, 80 Harv. L. Rev. 1005, 1027-38 (1967); Note, *Freedom of Expression in a Commercial Context*, 78 Harv. L. Rev. 1191 (1965).

<sup>44</sup> 376 U.S. 254 (1964).

<sup>45</sup> *Id.* at 266. See *Smith v. California*, 361 U.S. 147, 150 (1959). Cf. *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 64 n. 6 (1963).

<sup>46</sup> 374 U.S. at 266.

<sup>47</sup> See *New York Times Co. v. Sullivan*, 376 U.S. 254, 266 (1964). Cf. *Schneider v. New Jersey*, 308 U.S. 147, 164 (1939); *Lovell v. City of Griffin*, 308 U.S. 444 (1938).

<sup>48</sup> *Jamison v. Texas*, 318 U.S. 418 (1943); *Murdock v. Pennsylvania*, 319 U.S. 105 (1943); *Terminiello v. Chicago*, 337 U.S. 1 (1949); *Schenck v. United States*, 249 U.S. 47 (1919) (Holmes, J.).

<sup>49</sup> *Whitney v. California*, 274 U.S. 357, 373 (1927) (Brandeis, J., concurring). See also *Adderley v. Florida*, 385 U.S. 39 (1966); *Feiner v. New York*, 340 U.S. 315 (1951); *Kovacs v. Cooper*, 336 U.S. 77 (1949); *Abrams v. United States*, 250 U.S. 616 (1919). See generally Z. Chafee, *Free Speech in the United States* 383-98 (1941); A. Cox, *The Warren Court* 109-13 (1968).

<sup>50</sup> Mr. Justice Black urged an absolute interpretation of the first amendment. See B. Black, *The Bill of Rights and the Federal Government in the Great Rights* (Cahn ed. 1963); Cahn, *Justice Black and First Amendment "Absolutes"*, A Public Interview, 37



in *Schenck v. United States*,<sup>28</sup> was recently reasserted in *Brandenburg v. Ohio*.<sup>29</sup> Viewed in the context of prior cases,<sup>30</sup> *Brandenburg* suggests that the first amendment protects virtually all speech except that in a limited class of "incitement" situations. Under the clear and present danger and incitement type of test, speech content can be controlled only when it presents an imminent threat to fundamental government interests. Thus, a clear and present danger concept provides for the maximum protection of speech necessary to a wide dissemination of controversial ideas.

Considered solely in terms of the "clear and present danger" decisions, any campaign expenditure ceiling may be difficult to reconcile with the first amendment. As Senator Edward Kennedy indicated, a ceiling on total campaign spending, "is a step that cannot be justified except under the most stringent circumstances, in accord with the standard of 'Clear and Present Danger', established long ago by the Supreme Court as the test by which denials of free speech under the First Amendment must be measured."<sup>31</sup> The Court has not, however, used a clear and present danger analysis in all free speech cases. According to Professor Emerson, the second type of standard applied involves an "ad hoc balancing test."<sup>32</sup> Professor Emerson defines the approach as follows: "[T]he Court must, in each case, balance the individual and social interest in freedom of expression against the social interest sought by the regulation which restricts expression."<sup>33</sup>

Nothing that "the overwhelming preponderance of the testimony . . . indicates the rapidly escalating cost of campaigning for public office poses a real and imminent threat to the integrity of the electoral process," the Senate Commerce Committee asserted that a balancing test would validate the spending ceiling proposed in S 382.

Where, as here, legislation intending to preserve the purity of Federal elections by limiting spending, also has the side effect of touching upon First Amendment rights, the criteria for determining its constitutionality are the presence of an evil which may validly be prevented, a reasonable relationship of the regulation to the evil, and the relative degree of effect upon the right to speak. There is a balancing of the limited effect upon free speech as against the substantiality of an evil to the

<sup>28</sup> 249 U.S. 51 (1918). This position was also urged by Mr. Justice Douglas, see *Roth v. United States*, 354 U.S. 476, 514 (1957) (Douglas & Black JJ. dissenting). The absolute position has not been accepted by a majority of the Court. Brennan, *The Mathiasian Interpretation of the First Amendment*, 70 Harv. L. Rev. 1, 11 (1956). For commentary on this approach, see A. Bickel, *The Least Dangerous Branch* 63, 66-67 (1962); Emerson, *Toward a General Theory of the First Amendment*, 72 Yale L.J. 877, 914-15 (1960); Freund, *Mr. Justice Black and the Judicial Function*, 14 U.C.L.A. L. Rev. 407 (1967); Kalven [on Reading Mr. Justice Black on the First Amendment], 14 U.C.L.A. L. Rev. 423 (1967); Korn, *Legislative Power in Constitutional Litigation*, 1960 Sup. Ct. Rev. 73, 78-79; Rogers, "Congress Shall Make No Law," 56 Mich. L. Rev. 351 (1958).

<sup>29</sup> 343 U.S. 47 (1952).

<sup>30</sup> 305 U.S. 444 (1940). The clear and present danger type of test appears in several different formulations. The following quotations provide three examples: "[T]he constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action," *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1960); "Only the gravest abuses, endangering paramount interests, give occasion for permissible limitation," *Thomas v. Collins*, 323 U.S. 516, 530 (1945); (Rutledge J.), "[F]reedoms of speech and of press, of assembly . . . are susceptible of restriction only to prevent grave and immediate danger to interests which the State may lawfully protect," *West Virginia Bd. of Educ. v. Barnette*, 319 U.S. 624, 639 (1943).

<sup>31</sup> E.g., Dennis v. United States, 341 U.S. 444 (1951); *Whitney v. California*, 274 U.S. 377 (1927) overruled by *Brandenburg v. Ohio*, 395 U.S. 444 (1960); *Schenck v. United States*, 249 U.S. 47 (1918). See also Nathan, *Dennis v. United States—Precedent, Principle or Perfection*, 5 V and L. Rev. 341 (1952); Nathanson, *The Communist Trial and the Clear and Present Danger Test*, 43 Harv. L. Rev. 1107 (1955). See generally T. Emerson, *The System of Freedom of Expression* 112-21 (1970).

<sup>32</sup> Press release of Senator Kennedy, Mar. 2, 1971, on file with the Harvard Civil Liberties-Civil Liberties Law Review. Senator Kennedy's bill was S. 1121, 92d Cong., 1st Sess. (1971). See Note, *Campaign Spending Regulation* supra note 31, at 604-67.

<sup>33</sup> T. Emerson supra note 31, at 717. Emerson notes that the change occurred in American Communications Workers Ass'n v. Donda, 339 U.S. 582 (1950). See also *Brown v. Alexandria*, 341 U.S. 622 (1951); *Kovacs v. Cooper*, 336 U.S. 77 (1949); *Wilson v. Webster*, 313 F. Supp. 1104 (C.D. Cal. 1970).

<sup>34</sup> T. Emerson supra note 31, at 718. Compare *Frantz, Is the First Amendment Law? A Reply to Professor Mendelson*, 51 Calif. L. Rev. 729 (1963) and *Frantz, The First Amendment in Balance*, 71 Yale L.J. 1424 (1962) with Mendelson, *The First Amendment and Judicial Process: A Reply to Mr. Frantz*, 17 Vand. L. Rev. 479 (1964) and Mendelson, *On the Meaning of the First Amendment: Absolutes in the Balance*, 50 Calif. L. Rev. 821 (1962). See also Fried, *Two Concepts of Interests: Some Reflections on the Supreme Court's Balancing Test*, 70 Harv. L. Rev. 753 (1963).

prevention of which a regulatory statute is reasonably addressed.

*Konigsberg v. State Bar*, . . .<sup>27</sup>

The Commerce Committee's extension of the balancing approach from a situation compelling disclosure, as in *Konigsberg*,<sup>28</sup> to a setting concerned with limitation of speech may seem justified under several Supreme Court decisions.<sup>29</sup> The principle example is *Kovacs v. Cooper*,<sup>30</sup> where the Court considered the validity of a municipal ordinance which banned from the city streets all sound trucks which emitted "loud and raucous" noises. In announcing the judgment of the Court upholding the ordinance in the face of an attack based on first amendment grounds, Mr. Justice Reed observed that, "absolute prohibition within municipal limits of all sound amplification, even though reasonably regulated in place, time and volume is undesirable and probably unconstitutional as an unreasonable interference with normal activities."<sup>31</sup> Because of the problem of the unwilling listener, Mr. Justice Reed concluded the *Kovacs* ordinance was justified by the need for reasonable protection in the homes or business houses from the distracting noises of vehicles equipped with such sound amplifying devices.<sup>32</sup> Although the ordinance banned "loud and raucous" sound trucks, no restriction was placed upon such alternative means of speech as newspapers, pamphlets, the human voice, and less-offensive sound trucks.

The balancing concept has been heavily criticized, particularly in cases where it seems to allow regulation of speech content.<sup>33</sup> Perhaps the most dangerous aspect of a balancing type of standard is that it may allow a critical free speech decision to rest upon subjective feelings rather than reasoned analysis. In many cases, a balancing approach may be "nothing more than a way of rationalizing preformed conclusions."<sup>34</sup>

Regardless of whether a balancing approach has been advisable in the cases in which it has been applied, the concept seems especially appropriate in the area of campaign spending limitations. In enacting expenditure ceilings, Congress faces conflicting free speech policies. It must protect the right of a speaker to say as much as he can purchase. But on the other hand, it must also protect the right of the hearer to receive diverse ideas and the right of a speaker to gain access to certain media. Because of the opposing free speech interests at stake, use of a balancing approach seems inescapable. To apply a clear and present danger approach to protect one of these interests is to disregard or *sub silentio* reject the other. A balancing analysis allows a weighting of the relative first amendment merits, as well as a consideration of the multiple dangers to a democratic political system resulting from unrestricted campaign expenditures. Moreover, traditional objections to balancing should be minimized here because spending restrictions affect primarily the amount rather than the content of speech.

Assuming a balancing type of standard is appropriate, the problem remains of how to maximize protection of the conflicting first amendment interests with which campaign spending legislation is concerned. A limited analysis of "less-restrictive alternatives" may be necessary.<sup>35</sup> If a viable alternative method exists for curbing the dangers of unrestricted campaign spending, then an expenditure ceiling may fail first amendment scrutiny. The difficult question is whether the Court is equipped to undertake the precise analysis of practical factors which may be necessary in this area.

Numerous alternatives to expenditure ceilings have been proposed.<sup>36</sup> One would couple tax incentives<sup>37</sup> with contribution limitations. A consideration of

<sup>27</sup> 1971 Senate Report 81. The factors suggested by the Commission's balancing standards are discussed in Part III, *infra*.

<sup>28</sup> 368 U.S. 36, 50-51 (1961).

<sup>29</sup> *Cameron v. Johnson* 396 U.S. 611 (1968); *Adderley v. Florida*, 385 U.S. 39 (1966); *Kovacs v. Cooper*, 336 U.S. 77 (1949); *Cox v. New Hampshire*, 312 U.S. 569 (1941).

<sup>30</sup> 336 U.S. 77 (1949).

<sup>31</sup> *Id.* 81-82 (emphasis added). Cf. *Sala v. New York* 334 U.S. 538 (1948), where the Court held a sound amplification statute "void on its face." The law banned the use of sound amplification devices except for dissemination of news items and "matters of public concern." The exceptions had to be approved by the Police Chief; no statutory standards guided his action.

<sup>32</sup> 336 U.S. at 81-82.

<sup>33</sup> E.g., *Konigsberg v. State Bar* 368 U.S. 36, 60-71 (1961) (Warren, C.J., & Douglas, J., dissenting); T. Emerson, *supra* note 53, at 718. See generally P. Kauper, *Civil Liberties and the Constitution* (1962). See note 54 *supra*.

<sup>34</sup> T. Emerson, *supra* note 53, at 718.

<sup>35</sup> See note 126, *infra*.

<sup>36</sup> See p. 214 *supra*.

<sup>37</sup> See *id.*

the resulting constitutional and practical issues involved, however, is difficult. Although tax incentives may provide increased political funds to certain candidates, most, if not all, of the financial assistance will probably go to existing parties. As a result, new parties struggling for initial support may be effectively priced out of the political arena. Furthermore, tax incentives raise questions of associational rights and improper government influence in the political arena. On the other hand, the tax incentives may reduce reliance on outside contributions, thus reducing the danger of improper influence by wealthy individuals. Similar uncertainties are involved with regard to contribution limits. Restrictions on the amount an individual or corporation can contribute may only lead to a channeling of contributions through family members and corporate employees. Moreover, a limitation on contributions raises its own serious free speech problems.

The relative merits and weaknesses of the various alternatives to campaign spending limitations have been discussed in other works.<sup>30</sup> The important point at this juncture is that the Court may have to use a less-restrictive alternative mode of inquiry if meaningful bounds are to be placed on the balancing standard of review. This suggestion does not mean that the Court must choose the *least* restrictive method of curbing the relevant dangers. Rather, if expenditure limitations are clearly more restrictive of free expression than any of several alternatives, the Court should declare the spending ceiling unconstitutional and allow Congress to devise an appropriate alternative. If after careful scrutiny the differences among standards seem uncertain, the Court should defer to congressional judgment.

#### *B. Another Approach to Balancing: The Right of the Hearer*

In a line of recent defamation cases, the Court has expounded yet another formula for judging the protection afforded by the first amendment. The principal case is *New York Times Co. v. Sullivan*,<sup>31</sup> in which the Court held that a public official could not recover damages for a defamatory falsehood relating to his official conduct unless he could prove that the statement was made "with knowledge that it was false or with reckless disregard of whether it was false or true."<sup>32</sup> The first amendment was held to delimit a state's power to award libel damages in actions brought by public officials against critics of their official actions.

In 1971, the Court extended the logic of *Sullivan* to a case involving a candidate for public office,<sup>33</sup> interpreting the *Sullivan* rule to include anything which might touch on a candidate's fitness for office. During the same term the Court also decided *Ocala Star-Banner Co. v. Damron*,<sup>34</sup> holding that a charge of criminal conduct against a public official or a candidate for office was always relevant to fitness for office, and was therefore protected by the *Sullivan* doctrine.

The impact of these two recent decisions on the scope of the first amendment in political process cases is significant. Viewed in a limited context, they may be seen as mere extensions of the general libel policies announced in *Sullivan*. Considered more broadly, the decisions suggest the special importance of a free flow of candidate information in electoral contexts. This suggestion is strengthened by the fact that *Sullivan* involved speech in the form of a paid advertisement.

The most recent pronouncement in this area is *Rosenbloom v. Metromedia, Inc.*<sup>35</sup> The plurality opinion of Mr. Justice Brennan erased the distinction between public officials and private citizens in situations involving a discussion of public interest. The opinion emphasized that the underlying rationale of the *Sullivan* standard was concern for the flow of information to the populous on matters of general public interest.

The most important impact of this line of decisions is on the right of the hearer to receive an adequate flow of information,<sup>36</sup> a concept of protection

<sup>30</sup> E.g., H. Penniman & E. Winter, Jr., *supra* note 9; A. Rosenthal, *supra* note 31; Note, *Campaign Spending Regulation*, *supra* note 31.

<sup>31</sup> 376 U.S. 254 (1964). See A. Cox, *The Warren Court* 95-102 (1968). For a discussion of *Sullivan* with regard to application of the first amendment to commercial advertising, see pp. 219-20 *supra*.

<sup>32</sup> 376 U.S. at 280. Cf. *Barr v. Matteo*, 360 U.S. 504, 575 (1959).

<sup>33</sup> *Monitor Patriot Co. v. Roy*, 401 U.S. 265 (1971).

<sup>34</sup> 401 U.S. 295 (1971).

<sup>35</sup> 403 U.S. 29 (1971).

<sup>36</sup> Cf. *Lamont v. Postmaster Gen.*, 381 U.S. 301 (1965); *Associated Press v. United States*, 326 U.S. 1 (1945).

made explicit in *Red Lion Broadcasting Co. v. FCC*.<sup>395</sup> While upholding the constitutionality of the "fairness" and political reply time doctrines, the Supreme Court in *Red Lion* reasoned:

"Because of the scarcity of radio frequencies, the Government is permitted to put restraints on licensees in favor of others whose views should be expressed on this unique medium. But the people as a whole retain their interest in free speech by radio and their right to have the medium function consistently with the ends and purposes of the First Amendment. It is the right of the viewers and listeners, not the right of the broadcasters which is paramount."<sup>396</sup>

The majority opinion further explained that the purpose of the first amendment is "to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by the Government itself or by a private licensee."<sup>397</sup>

The approach in these decisions is similar to the theory of the first amendment espoused by Professor Alexander Meiklejohn that "the point of ultimate interest is not the words of the speakers but the minds of the hearers."<sup>398</sup> According to Meiklejohn, government action which multiplies the number of voices reaching the public on matters of public concern should not be held violative of the first amendment.

Mr. Justice Brennan observes that Meiklejohn finds no fault with laws which require the speaker to conform to the necessities of the community with respect to time, place, circumstances, and manner of procedure, as long as these qualifications are not excuses for attempts to suppress speech which he classifies as having "governing importance":

"It is these activities of 'governing importance' in all their diversity that fall within the scope of the first amendment, and for such activities the amendment gives unqualified protection. Among those activities [Meiklejohn] put first the freedom to vote; this is the concrete activity by which self-governing men express their judgments on issues of public policy. He also included the vast range of forms of thought and expression by which the voter might equip himself to exercise a proper judgment in casting his ballot."<sup>399</sup>

That a particular law regulates speech does not necessarily imply that the first amendment is abridged. The appropriate inquiry may be whether the law increases the overall flow of ideas to the community. Under this approach the first amendment is more than a simple prohibition of direct government interference with speech. Rather, it is a means to ensure a system of free expression which will actively contribute to informed decision-making.<sup>400</sup>

The impact of any theoretical right of the hearer upon campaign expenditure limits can be viewed from at least three perspectives. First, because limitations may reduce the overall flow of political advertising, they may be considered unconstitutional restrictions on the hearer's right to information. Second, because spending ceilings reduce the economic disparity between candidates, thus allowing a more balanced presentation, they may be said to increase fairness and promote more effective electoral decision-making. Third, by removing the financial deterrents to otherwise qualified candidates, the ceilings prevent the electoral process from becoming the exclusive preserve of the wealthy. Limitations may be viewed as constitutional only if the level of spending allows the presentation of an "adequate" volume of contrasting ideas.

<sup>395</sup> 395 U.S. 367 (1969). The decision, of course, must be viewed in the special context of the broadcasting industry. See also *Office of Communication of the Church of Christ v. FCC*, 339 F.2d 894 (D.C. Cir. 1966) (members of general public have standing to intervene in a license renewal proceeding to protest racially discriminatory station programming), noted in 80 Harv. L. Rev. 670 (1967).

<sup>396</sup> 395 U.S. at 390.

<sup>397</sup> *Id.*

<sup>398</sup> A. Meiklejohn *Political Freedom* 26 (1960).

<sup>399</sup> Brennan, *The Meiklejohn Interpretation*, *supra* note 50, at 13. See also *Garrison v. Louisiana*, 379 U.S. 64, 74-75 (1964); Meiklejohn *The First Amendment Is an Absolute*, 1961 Sup. Ct. Rev. 245, 247. Cf. *Barr v. Matteo*, 360 U.S. 564 (1959).

<sup>400</sup> Professor Emerson supports this position: "[G]reater attention must be given to the right of the citizen to hear varying points of view and the right to have access to information upon which such points of view can be intelligently based. Thus, equally with the right and ability to speak, such an approach would stress the right to hear and the right to know." T. Emerson, *supra* note 53, at 629.

Because an effective spending ceiling must apply to any expenditures on behalf of a candidate,<sup>24</sup> the reduction in available information would quiet the voices of friends and committees as well as that of the candidate himself. Moreover, if the ceiling implementation procedure required approval of expenditures by the candidate's representative,<sup>25</sup> the candidate might suppress comments made on his behalf merely because they did not coincide with his campaign strategy.

On the other hand, spending ceilings can be viewed in the context of *Ballin* and *Red Lion* as an effort to insure a balanced flow of differing points of view. Informed public decision-making occurs only if all sides of a given issue are presented. Spending ceilings effectuate such a presentation in several ways. They can prevent persons with limited financial support from being eliminated from the electoral process. In addition, the ceilings inhibit "excessive" advertising by any given candidate. By keeping either side from flooding the media with a single point of view, the limits prevent one candidate from destroying, by sheer volume rather than by reason, the effectiveness<sup>26</sup> of informational advertising presented by opposing candidates.

Campaign spending limitations are an effort to protect the openness of the political process. The Supreme Court pursued a similar goal in the *White Primary Cases*.<sup>27</sup> Although they involved racial discrimination and not first amendment issues, the impact of the decisions was to extend the primary franchise to all citizens. The Court's invalidation of the poll tax in *Harper v. Virginia Board of Elections*<sup>28</sup> offers a more direct analogy. Speaking for the Court, Mr. Justice Douglas declared: "Wealth, like race, creed, or color, is not germane to one's ability to participate intelligently in the electoral process. Lines drawn on the basis of wealth or property, like those of race . . . are traditionally disfavored."<sup>29</sup> Whether this approach will be extended to uphold campaign spending ceilings is a difficult question.

The third perspective of the listeners' rights theory centers on the level of limitation imposed. An expenditure ceiling which insures an "adequate" total flow of information to the electorate but curtails "excessive" advertising by individual candidates is less objectionable than one which suppresses the flow of ideas to a level below that necessary for informed decision-making. This argument would be strengthened by a demonstration that above a certain level of per voter expenditures the effectiveness of the advertising is substantially reduced. The spending ceiling would then be directed toward "superfluous" speech and not toward idea content.

However, determination of the line separating a limit which inhibits the adequate flow of information and one which allows some candidate to monopolize the marketplace of ideas is a difficult and sensitive task.<sup>30</sup> A ceiling which initially has little impact on effective speech may be compared to a tax which is at first levied at an insignificant rate. As Mr. Chief Justice Marshall warned in the 1827 import

<sup>24</sup> See p. 215 *supra*, and p. 259 *infra*. See generally, Lederle, *Political Committee Expenditures and the Hatch Act*, 44 Mich. L. Rev. 294 (1945).

<sup>25</sup> S.g., 8 382, 82d Cong., 1st Sess., §§ 102(vi), 103(e) (1971); H. 9637, 91st Cong., 2d Sess., § 2(5) (1970).

<sup>26</sup> Any theoretical discussion of the "effectiveness" of political speech may have to be analyzed in terms of marginal utility. As Professor Fingerhut explains, "assessments of campaign spending limitations calculated only in terms of the dollars lost by each party . . . are seriously misleading. The key inquiry may be . . . who would lose more votes from the imposition of an expenditure ceiling. Fingerhut, *A Limit on Campaign Spending—Who Will Benefit?*, The Public Interest Fall 1971 at 9-10. He asserts that Democratic spending operates at considerably higher "marginal payoff levels" than GOP spending. *Id.* at 10. Moreover, due to the difficulty of establishing name recognition, the marginal effectiveness of expenditures made by candidates challenging incumbents may be less, at least initially, than that enjoyed by the incumbents themselves.

The argument that "ineffective" speech may constitutionally be subject to a "greater" amount of regulation than effective speech must not be misunderstood. The assertion involves a sliding scale rather than absolutes. Assume that Congress sets a spending limit at a level at which the marginal effectiveness of the party with the most effective "payoff level" of voter influence approaches zero. The argument is not that Congress need show no compelling interest to justify regulation of the allegedly "ineffective" speech above that spending level. Rather, the suggestion is that because the value of the marginally ineffective speech to society is less than the worth of speech which is effective in changing voters' minds, the countervailing interest shown by Congress need be less strong once the marginal effectiveness approaches zero. In the balancing approach, as the marginal value of the speech increased, the compelling interest shown would also have to increase to justify regulation.

The difficulty with this approach is that it implicitly involves Congress in a determination of the relative values of speech at given expenditure levels. But this is precisely the action that results in a Court-applied balancing test—a balance is struck between the value of free expression and the state's need to regulate a given evil.

<sup>27</sup> S.g., *Terry v. Adams*, 345 U.S. 461 (1953); *Smith v. Allwright*, 321 U.S. 649 (1944).

<sup>28</sup> 383 U.S. 643 (1966).

<sup>29</sup> *Id.* at 669.

<sup>30</sup> For a discussion of the vagueness and overbreadth implications of the ceiling level, see pp. 230-33 *infra*.

tax case of *Brown v. Maryland*,<sup>25</sup> "[i]t is obvious that the same power which imposes a light duty can impose a very heavy one, one that amounts to a prohibition."

### C. Unconstitutional Overbreadth and Vagueness

In some cases the Court has gone beyond the appropriate free speech protection standard to hold statutes and ordinances unconstitutionally broad or vague in scope.<sup>26</sup> Such provisions have usually been judged 'on their face' without regard to evidence of abuse in application. As Mr. Justice Murphy explained in *Thornhill v. Alabama*,<sup>27</sup> in these instances, "[p]roof of an abuse of power in the particular case has never been deemed a requisite for attack on the constitutionality of a statute purporting to license the dissemination of ideas."

The rationale of the overbreadth doctrine recognized that application of overbroad laws to suppress constitutionally privileged speech is not their only vice. The deterrent impact, or "chilling effect", of such laws on protected expression is the primary target of the doctrine. In response to the assertion that courts should not seek to cure statutory overbreadth until a claimant who is himself privileged has pursued normal channels of judicial review, the doctrine states that persons contemplating constitutionally protected speech which is barred by the overbroad law may be discouraged from testing their claim, even where its vindication is likely. "Operating against a bold assertion of rights are respect for legality, uncertainty that one's claim of privilege will be held to prevail, consequent fear of statutory penalties, and general unwillingness to bear the burdens of litigation."<sup>28</sup>

A candidate or supporter might for such reasons refrain from challenging overbroad spending ceiling legislation. In addition, he might find the challenge too protracted a process to be useful. Finally, any such attack might hinder his pursuit of votes during a campaign.

Vagueness in terminology must also be avoided if the legislation is to withstand constitutional criticism.<sup>29</sup> The rationale of the vagueness doctrine, which is especially sensitive in first amendment cases, rests on procedural due process requirements of fair notice and proper standards. The provisions of a campaign spending statute must be sufficiently definite to give reasonable notice to regulated persons of how to comply, and to apprise administrators, judges, and juries of standards for determining violations.<sup>30</sup> An unconstitutionally vague statute would have a chilling effect on speech which the statute itself intends to protect. But as congressional debates on earlier campaign spending measures,<sup>31</sup> suggest, achieving this goal of particularity may not be an easy task.

<sup>25</sup> 25 U.S. (12 Wheat.) 419, 438-39 (1827). See 2 Writings of James Madison 153, 180 (Grant ed. 1910).

<sup>26</sup> See Note, *The First Amendment Overbreadth Doctrine*, 83 Harv. L. Rev. 844 (1970). Cf. Note, *Due Process Requirements of Definiteness in Statutes*, 62 Harv. L. Rev. 77 (1948); Note, *The Void for Vagueness Doctrine in the Supreme Court*, 100 U. Pa. L. Rev. 67 (1960).

<sup>27</sup> 310 U.S. 49, 87 (1940).  
<sup>28</sup> Note, *The First Amendment Overbreadth Doctrine*, supra note 26, at 854-55.  
<sup>29</sup> E.g., *Baggett v. Bullitt*, 377 U.S. 360, 367-78 (1964); *Landry v. Daley*, 260 F. Supp. 638, 641 (N.D. Ill. 1968). Note, *The Void for Vagueness Doctrine*, supra note 26.

<sup>30</sup> E.g., *Bala v. New York*, 334 U.S. 558, 562 (1948). "When a city allows an official to ban [loudspeakers] in [the Police Chief's] uncontrolled discretion it sanctions a device for suppression of free communication of ideas." The first amendment is a limitation only upon the federal government and since *Gitlow v. New York*, 268 U.S. 652 (1925), upon the state governments and their political subdivisions. Thus the assertion can be made that the candidate withholding approval and not a government officer is restricting expression. The rebuttal is that but for the spending legislation, the candidate would have no general authority to prevent an interested citizen from purchasing political advertising on his behalf. Moreover, private power may be so closely related to formal governmental structures as to justify application of first amendment protections. See *Food Employees Union v. Logan Valley Plaza Inc.*, 391 U.S. 308 (1968); *Shelley v. Kraemer*, 334 U.S. 1 (1948); *Marsh v. Alabama*, 326 U.S. 501 (1946); *Ch. Terry v. Adams*, 345 U.S. 461 (1953); *Smith v. Allwright*, 321 U.S. 649 (1944); *Nixon v. Herndon*, 273 U.S. 536 (1927). See also *International Ass'n of Machinists v. Street*, 367 U.S. 746 (1961); *Roberts v. Dowdell*, 367 U.S. 420 (1961); *Railway Employees' Dep't v. Hanson*, 351 U.S. 225 (1956). These cases suggest that any governmentally supported restriction of expression by the candidate would meet action requirements. See generally *Bell v. Maryland*, 378 U.S. 228 (1964); *Borrows v. Jackson*, 346 U.S. 1 (1954); *Paulsen, The Bill of Rights of 1964: "But the Answer Came There Home"*, 1964 Sup. Ct. Rev. 127; Pollack, *Racial Discrimination and Judicial Integrity*, 108 U. Pa. L. Rev. 1 (1959); Comment, *The Impact of Shelley v. Kraemer on the State Action Concept*, 44 Calif. L. Rev. 719 (1956).

<sup>31</sup> See 178 Cong. Rec. R17401 (daily ed. Oct. 13, 1970) (President's veto message); *id.* at R1734 (daily ed. Nov. 23, 1970) (remarks of Senator Hruska); *id.* at R1728 (remarks of Senator Pastore); *id.* at R1726-27 (remarks of Senators Pastore and Miller). In 1971 Senate Report 30, the majority Report states: "Clearly the rule of reason is applicable here. Your Committee can envision very few if any instances where it cannot reasonably and readily be prejudged that such a broadcast or advertisement would not be on behalf of the opponent of the candidate being criticized. Any doubts, however, should be resolved in favor of strict application of the legislation."

First amendment vagueness problems often arise with regard to statutes involving license application and administrative approval.<sup>82</sup> Both S. 382 and S. 3637 involve problems of standard and of administrative discretion. The bills prohibit a broadcast station or other medium from charging any person or group for political advertising on behalf of any candidate unless the candidate's representative certifies that the expense will not violate the applicable spending ceiling.<sup>83</sup> No other standards to guide the candidate's actions are mentioned, but presumably the candidate would approve only advertising which would portray him in the most acceptable light. For example, if "law and order" is the principal issue in a close campaign, a liberal candidate might refuse to approve a paid announcement of support by a coalition of radical students. A banker, wishing to finance his own television address in favor of a senatorial candidate, might be unable to purchase broadcast time without agreeing to speak of the candidate in terms appropriate to a given campaign style. In short, the candidate could refuse approval for any or no reason, he could restrict speech which does not endanger the electoral process. Unless appropriately narrow standards are provided to limit the exercise of a candidate's discretion, a campaign spending ceiling may be held unconstitutional<sup>84</sup> because of this vagueness.<sup>85</sup>

One difficult question of vagueness involves "issues" advertising. Suppose Candidate A in a congressional race has long been associated with the position in favor of a generous welfare program. Candidate B, however, has been a strong and vocal critic of all welfare proposals. Assume further that this issue is central to the campaign and that most voters easily associate the candidates with their respective views.<sup>86</sup> If the "Citizens Committee for Responsible Welfare" sponsors a television advertising campaign designed to show overwhelming need for a fair but expensive welfare program, Candidate A will receive substantial campaign assistance. If the advertising makes no mention of candidate names or political parties, including the expense in the allowable campaign budget of Candidate A would be a serious infringement upon substantive first amendment rights.<sup>87</sup>

Similar "accounting" problems could arise with regard to party advertising. If the Republican National Committee sponsors advertisements urging support for "the Republican ticket," the expenses of such announcements might be attributed solely to the presidential and vice-presidential budgets of the Republican party. Alternatively, some fractional portion could be added to the budget of each Republican congressional candidate. If the latter allocation is chosen, candidates officially affiliated with a party but not choosing to support party doctrines might

<sup>82</sup> See note 93 *supra*.

<sup>83</sup> S. 382, 92d Cong., 1st Sess. §§ 102, 103(e) (1971); S. 3637, 91st Cong., 2d Sess. § 2(5) (1970).

<sup>84</sup> Conversely, severe practical problems may arise if the spending legislation dictates approval standards. If the candidate could not refuse approval unless the advertising involved would directly result in a violation of the applicable ceiling, he would be unable to structure an effective campaign strategy. Groups actually opposing the candidate could sponsor weak paid announcements on his behalf, and thus use up the amount earmarked for the candidate. Although approval standards designed to maximize the right of the hearer to diverse sources of information might be theoretically pleasing, the practical implementation of such a plan would be difficult. But without some standards, the candidate conceivably could refuse to approve any advertising "on his behalf" offered by any or all outside groups.

<sup>85</sup> E.g., *Cox v. Louisiana*, 378 U.S. 583 (1964); *Edwards v. South Carolina*, 372 U.S. 229 (1963); *Terminiello v. Chicago*, 337 U.S. 1 (1949); *Winters v. New York*, 333 U.S. 507 (1948); *Cantwell v. Connecticut*, 310 U.S. 298 (1940); *Connally v. General Constr. Co.*, 260 U.S. 383, 391 (1924). Cf. Note, *The First Amendment Overbreadth Doctrine*, *supra* note 80, at 845 n.5. "The vice of statutory vagueness in the area of the first amendment is often very intimately related to the vice of overbreadth. Sometimes the two are functionally indistinguishable." In his concurring opinion in *United States v. CIO*, 335 U.S. 306, 329 (1948), Mr. Justice Rutledge expressed concern over the vagueness of § 304 of the Taft-Hartley Act. That section prohibits a union or corporation from making contributions or expenditures in connection with any election. See pp. 251-54 *infra*. One commentator has suggested that "statutes which burden certain expressive interests may be subject to a less rigorous overbreadth test than laws which can be classified as 'censorial'." Note, *The First Amendment Overbreadth Doctrine*, *supra* note 80, at 830 (discussing *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969)).

<sup>86</sup> The latter assumption may be inappropriate in the usual political context. See A. Campbell, P. Converse, W. Miller & D. Stokes, *The American Voter* 136-44 (2d ed. 1964). "[T]he concepts important to ideological analysis are useful only for that small segment of the population that is equipped to approach political decisions at a refined level." *Id.* at 144.

<sup>87</sup> Neither S. 382 nor S. 3637 explicitly governs this situation. If issue advertising expenditures are included within the allowable campaign budget of the candidates favorably associated with the issue, the spending act may be subject to challenge on grounds of overbreadth. For the few that limitation of campaign expenditures may be inappropriate unless corporate issue advertising is also restricted or offset with countervailing views, see Fingerhut, *Who Will Benefit*, *supra* note 83, at 11-12.

have their budgets "charged" for advertising which actually harmed their campaign strategy.<sup>120</sup>

Unfortunately, campaign spending legislation proposed in the last two years has not offered explicit solution to those and similar problems. Such a campaign spending act may withstand challenge on overbreadth or vagueness grounds if the necessary clarity is supplied through limiting instructions or judicial interpretation.<sup>121</sup> But this saving technique does not relieve Congress of its responsibility to draft appropriately precise legislation. The chilling effect during the period before a narrowing judicial interpretation should be minimized.

#### D. Judicial Deference to Congressional Findings of Fact

Once the proper standard of review is selected, the Court must decide how much weight to give to congressional findings and judgments.<sup>122</sup> The difficult question is whether such determinations should be given less weight in controversies involving specific constitutional rights, particularly in those restricting free expression, than in situations concerning economic matters.<sup>123</sup> As Mr Justice Stone asserted in a footnote to *United States v. Carolene Products Co.*,<sup>124</sup> "[t]here may be narrower scope for operation of the presumption of constitutionality when legislation appears on its face to be within a specific prohibition of the Constitution, such as those of the first ten amendments, which are deemed equally specific when held to be embraced within the Fourteenth."

Another point of view has been offered by Mr Justice Frankfurter. In his concurring opinion to *Korosa*, he criticizes the suggestion that the first amendment should have a "preferred" position, observing that the *Carolene Products* footnote did not have the concurrence of a majority of the Court.<sup>125</sup> He suggests that the footnote "[m]erely stirred inquiry whether as to such matters there may be narrower scope for operation of the presumption of constitutionality" and legislation regarding them is therefore to be subjected to more exacting judicial scrutiny.<sup>126</sup>

Thus, Mr. Justice Frankfurter seemed to distinguish between the suggestion that freedom of speech has a "preferred position" and the assertion that different standards of judicial inquiry may apply to legislation affecting free speech and that concerning economic measures.<sup>127</sup>

<sup>120</sup> The three-way New York senatorial contest in which Charles Goodell was defeated offers an example of the situation in which the proposed legislation could have had such an effect. Senator Goodell was defeated by Conservative party candidate James Buckley in a three-way race including Democratic nominee Richard Ottinger. Buckley had the indirect support of the Nixon administration.

<sup>121</sup> There are several Supreme Court cases support the position that limiting instructions or judicial interpretation can cure overbreadth or vagueness. *Brandenburg v. Ohio*, 395 U.S. 444 (1969); *Terminiello v. Chicago*, 337 U.S. 1 (1949); *Thornhill v. Alabama*, 310 U.S. 49 (1940). In *Fox v. Washington*, 238 U.S. 273, 279 (1915), the Court affirmed a conviction where the alleged vagueness was cured by an opinion of the state court.

<sup>122</sup> In certain situations the question of the constitutionality of a statute may "deserve an answer from the judge because some of the subquestions on which the legislator is free indeed has a duty to make up his own mind may be foreclosed from judicial consideration by the judge to defer to the legislative judgment." Cox, *The Role of Congress in Constitutional Determinations*, 40 U. Cin. L. Rev. 109, 200 (1971). "In such cases, although the Supreme Court purports to say that the challenged measure is constitutional, in truth the decision is only that the measure does not conflict with the Constitution given the finding or judgment that Congress has expressed upon its subdivision of the ultimate question." *Id.* (emphasis added).

<sup>123</sup> For a discussion of economic due process concepts see Struve, *The Less Restrictive Alternative Theory and Economic Due Process*, 30 Harv. L. Rev. 1403 (1967). For the argument that substantive due process should be construed differently in cases involving personal rights than in situations involving economic rights, see Emerson, *Nine Justices in Search of a Doctrine*, 64 Mich. L. Rev. 219 (1965).

<sup>124</sup> 304 U.S. 144, 152 n.4 (1934). The question of deference is clouded by the Court's use of avoidance techniques in certain instances. As Professor Cox asserts "[f]or the most part the Court has avoided rejecting clear cut legislative findings by developing doctrines such as overbreadth and void for vagueness with which to set aside particular convictions and condemn objectionable laws without denying legislative authority in the process." Cox, *The Role of Congress*, supra note 103, at 213, 24. See, e.g., *Cox v. Louisiana*, 379 U.S. 559 (1965) (overbreadth); *Edwards v. South Carolina*, 372 U.S. 229 (1963) (vagueness).

<sup>125</sup> *Korosa v. Connor*, 336 U.S. 77, 90-94 (1949) (Frankfurter, J. concurring). See Karst, *Legislative Facts*, supra note 50; McKay, *The Preference for Freedom*, 34 N.Y.U. L. Rev. 1142 (1959). See also Note, *The First Amendment Overbreadth Doctrine*, supra note 28, at 911, 19.

<sup>126</sup> 336 U.S. at 91, 92.

<sup>127</sup> See *id.* at 93, 96. In his dissent to *Korosa*, Mr. Justice Rutledge commented upon Justice Frankfurter's concurrence in the same case: "I think my brother Frankfurter demonstrates the conclusion opposite to that which he draws, namely that the First Amendment guarantees of the freedoms of speech, press, assembly, and religion occupy preferred positions not only in the Bill of Rights but in repeated decisions of this Court." *Id.* at 104. See Freund, *The Supreme Court and Civil Liberties*, 4 Vand. L. Rev. 633, 646 (1931); Karst, *Legislative Facts*, supra note 50, at 87.



The legislative branch may be best qualified to examine competing values in connection with social and economic programs.<sup>120</sup> Errors in judgment can arguably be corrected through the electoral process. Although economic legislation may impair private contracts and disturb individual business decisions, it does not impair an adequate flow of information and the political decision-making process. The situation is different, however, when the value of free speech is involved. Even if the legislature is presumed well-qualified to balance social interests and first amendment protections, the consequences of an inadvisable conclusion can be much more serious to democratic government. Unlike errors in economic matters, judgments affecting the dissemination of ideas may obstruct the electoral process by limiting rational political decision-making. If the legislative error is to be corrected the courts offer the sole route.<sup>121</sup>

The concept of selectively strict judicial scrutiny derives support from the view that the "ultimate protection for spiritual freedom, expression and political activity against other, opposing interests must come from the Court because it is more nearly than the political branches" <sup>122</sup> is "a voice of reason, charged with the creative function of discerning afresh and of articulating and developing impersonal and durable principles."<sup>123</sup> As Professor Cox explains,

[I]n this realm the political process—filled with arbitrary compromises and responsive as in some degree it must be to short-run pressures—needs a check that will preserve continuity and enforce more enduring values, that bespeak our aspirations instead of reflecting our practices that can remind us of what we are by insisting upon what we may be. The Court's influence upon our national consciousness reaches farther than its writ; its voice is needed to keep alive vital lessons of liberty and equal opportunity.<sup>124</sup>

One of the central goals of campaign spending legislation is to ensure a fair and balanced presentation of ideas for informal political decision-making. The importance of an informed electorate and an open political process substantially supports an approach to judicial review that accords less deference to congressional fact-finding in campaign spending legislation than is accorded in economic matters.

This reasoning does not necessarily argue against greater judicial deference to legislative findings of fact where the law expands media access and protects the right of the hearer.<sup>125</sup> The Court may already have applied a relaxation in

<sup>120</sup> Mr. Justice Holmes believed that sociological conclusions are substantially conditioned by time and circumstances. As a result, he seldom felt justified in placing his views in a superior position to those economic concepts that the legislature embodied in law. But because he also recognized that "the progress of civilization is to a considerable extent the displacement of error which once held sway an official truth by beliefs which in turn have yielded to other beliefs" . . . *Koraca v. Cooper*, 336 U.S. 77, 95 (1949) (Frankfurter, J. concurring) he considered the right to search for truth to be different from the challenge to some transient economic policy.

Without freedom of expression, the search may become checked and atrophied. Mr. Justice Holmes was therefore "far more ready to find legislative invasion where free inquiry was involved than in the debatable area of economics." *Id.* His approach of according less presumptive validity to laws affecting freedom of speech than to those involving economic resources seems sound. See P. Frankfurter, Mr. Justice Holmes and the Supreme Court 84 et seq. (1939). Cf. *Cahn*, *The Firstness of the First Amendment*, 65 Yale L.J. 464 (1956). The reasoning in support of such a position was also articulated by Mr. Justice Cardozo in *Palko v. Connecticut*, 302 U.S. 319, 327 (1937) (freedom of speech and thought is "the matrix, the indispensable condition of nearly every other form of freedom").

<sup>121</sup> This result is similar to that faced by the electorate in reapportionment controversies. As Mr. Justice Clark reasons in his concurring opinion in *Baker v. Carr*, 369 U.S. 186, 259 (1962): "The majority of the voters have been caught up in a legislative straight jacket. Tennessee has an 'informed, civically militant electorate' and 'an aroused popular conscience,' but it does not hear 'the conscience of the people's representative.' This is because the legislative policy has riveted the present seats in the Assembly to their respective constituencies, and by the votes of their incumbents a reapportionment of any kind is derailed. . . . [T]he people of Tennessee are stymied and without judicial intervention will be saddled with the present discrimination in the affairs of their state government."

<sup>122</sup> Cox, *The Role of Congress*, supra note 103, at 220.

<sup>123</sup> Hart, *The Supreme Court, 1958 Term, Foreword: The Time Chart of The Justices*, 73 Harv L. Rev. 84, 99 (1959).

<sup>124</sup> Cox, *The Role of Congress*, supra note 103, at 220.

<sup>125</sup> In the majority report on S. 362, the Senate Commerce Committee concluded that the spreading limitations imposed by that bill would not violate the first amendment. 1971 Report 31 A. But see *id.* at A6-A9 (supplemental views of Senators Proxmire, Griffin, Baker, Cook and Stivers). The majority relied on *Burroughs and Cannon v. United States*, 390 U.S. 434 (1968), a decision upholding the disclosure provisions of the Federal Corrupt Practices Act, 2 U.S.C. § 345 et seq. (1970). A close reading of that decision indicates that the Committee's reliance is wholly misplaced. First, the Act required detailed accounting

the review standard and the test for overbreadth in similar cases.<sup>110</sup> Because the standard of review applied is closely linked to the problem of judicial deference to legislative findings,<sup>111</sup> greater deference would seem appropriate in controversies where the Court applies a balancing standard. Conversely, if a version of the clear and present danger test is the basic standard, a corollary to its application might entail less judicial deference to legislative conclusions of fact.

Thus, if campaign spending ceilings are viewed as an expansion or protection of listeners' rights, congressional findings should be allowed greater judicial deference than if the legislation is seen as a restriction of first amendment freedoms.<sup>112</sup> But, for the reasons suggested above, neither approach should involve the substantial deference found in economic due process cases.<sup>113</sup>

### III. REGULATION BY CATEGORY

Just as many actions must coalesce to form "expression" on behalf of a candidate (such as formation of an interest group, solicitation of money, the decision to support a candidate, contribution of money, communication of ideas to the public, and affirmation of group support), so many dangers to the adequacy of free expression must be evaluated. Any legislative solution must respond accurately to different degrees of danger posed by various categories of expression.

Expenditures by candidates, committees, corporations, and labor unions may be more susceptible to constitutional regulation than those of individuals.<sup>114</sup> But if a spending ceiling is to be effective, it must include individual expenditures. The level of the ceiling may also be important.<sup>115</sup> Finally, the type of media and products subjected to limitation may govern the degree to which first amendment protections apply.<sup>116</sup> These and other considerations are explored in the following sections.

#### A. Regulating the Mode of Expression

1. *The Act of Communicating.* Supreme Court decisions indicate that the right of free speech is not absolute. Rather, the protection afforded expression is

and disclosure of contributions received and expenditures made for the purpose of influencing the election of presidential electors, and did not impose spending ceilings. Second, as Professor Emerson aptly observes, no first amendment issue was raised by the parties or by the Court; rather, the opinion revolved around whether the federal government, or only the states, possessed the power to enact such legislation. T. Emerson, *supra* note 53, at 643.

<sup>110</sup> See Note, *The First Amendment Overbreadth Doctrine*, *supra* note 89, at 930: "The purpose of counteracting private 'censorship' in granting access to airways justifies some relaxation of overbreadth standards." Cf. 44 at 920 n. 295.

<sup>111</sup> The similarity flows from the degree to which and the manner in which the legislative branch must justify its reasons for affecting free expression.

<sup>112</sup> For any such fine distinction to be meaningful, however, the Court and not Congress must make the initial determination of whether the law involved is an "expansion" or "restriction" of first amendment rights. Otherwise the legislative branch could merely invoke the greater deference by declaring that the law enlarges the freedom of speech. Nevertheless, the Court would probably accord some weight to such a congressional declaration.

As Professor Cox cautions the subject of judicial deference in cases involving an expansion of rights is an uncertain one: "A pattern of analysis giving Congress the power to make factual determinations expanding the scope of federal power was at under the commerce clause, but the precedents leave it uncertain how far the same pattern applies to congressional action enforcing the fourteenth amendment." Cox, *The Role of Congress*, *supra* note 103, at 224.

<sup>113</sup> Even if an economic due process standard is utilized, rough evaluation of alternative legislative approaches may not be beyond the competence of the courts. See *United States v. O'Brien*, 391 U.S. 367, 387-77 (1968): "[T]he incidental restriction on alleged First Amendment freedoms [must be] no greater than is essential to the furtherance of [an important or substantial governmental interest]"; *Dean Milk Co. v. City of Madison*, 340 U.S. 349, 354-56 (1951) (local measures which hamper interstate commerce are invalid "if reasonable nondiscriminatory alternatives, adequate to conserve legitimate local interests are available"); Cf. *Griswold v. Connecticut*, 381 U.S. 479, 485-89, 503-07 (1965); *Sherbert v. Verner*, 374 U.S. 398, 407 (1963); *Struve, The Less-Restrictive Alternative*, *supra* note 104; Note, *Less Draconic Means and the First Amendment*, 76 *Yale L.J.* 464 (1969).

For the view that Congress is the judge of alternatives so long as the approach chosen does not violate the first amendment see *United States v. Robel*, 395 U.S. 253, 301 (1967) (obscenity). Some suggest that *Robel* actually involves at least an implicit judicial assessment of alternatives. Gunther, *Reflections on Robel: It's Not What the Court Did But The Way It Did It*, 20 *Stan. L. Rev.* 1140 (1968).

<sup>114</sup> A. Rosenthal, *supra* note 31, at 25-26. E.g., Note, *Campaign Spending Regulation*, *supra* note 31, at 664.

<sup>115</sup> Cf. H. Penniman & R. Winter, Jr., *Campaign Finances*, *supra* note 9, at 60-61.

<sup>116</sup> Cf. *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969); A. Rosenthal, *supra* note 31, at 59-61; Barrow, *The Equal Opportunities and Fairness Doctrines in Broadcasting: Pillars in the Forum of Democracy*, 37 *U. Cin. L. Rev.* 447 (1968). See also *Mills v. Alabama*, 384 U.S. 214 (1966).

closely related to the nature of the act that carries an idea between persons.<sup>120</sup> As Mr. Justice Goldberg observed for the Court in *Che v. Louisiana*,<sup>121</sup> the first and fourteenth amendments do not afford the same kind of freedom to those who "communicate ideas by conduct such as patrolling, marching, and picketing on streets and highways," as it offers those "who communicate ideas by pure speech."<sup>122</sup> Different forms of action present different dangers and are accorded different degrees of first amendment protection.

Expenditures for "indirect" speech, such as billboards or television time, might be more susceptible to constitutional regulation than speech by human voice. Other classifications according to the form of speech are also possible. The plurality opinion in *Kovacs v. Cooper*<sup>123</sup> suggests that speech transmitted through mechanical or electronic devices is entitled only to limited first amendment protection. This reasoning is supported by dictum in *Red Lion*:<sup>124</sup>

Although broadcasting is clearly a medium affected by a First Amendment . . . differences in the characteristics of new media justify differences in the First Amendment standards applied to them. For example, the ability of new technology to produce sounds more raucous than the human voice justifies restrictions on the sound level and the hours and places of use of sound trucks so long as the restrictions are reasonable and applied without discrimination.

Another question involves distinguishing between modes of expression which are protected as "speech" and those which may be regulated as "conduct." The key distinction may have been set forth by the Court in *Cameron v. Johnson*:<sup>125</sup> prohibition of conduct does not abridge constitutional liberties if the conduct bears no necessary relation to the expression and distribution of information or opinion.

Political expenditures, however, bear a direct and necessary relationship to the expression of ideas. Without adequate campaign spending, the public may not be exposed to the interchange of information and thought necessary to an informed electorate and a democratic government.<sup>126</sup> In many campaigns, particularly those for national office, regulation of political spending is equivalent to regulation of effective political speech.

Some argument can be made that the first amendment's protection is independent of the expression's effectiveness, or, at least, the regulation of effective speech is not always constitutionally impermissible. In *Adderley v. Florida*<sup>127</sup> a protest occurred in the courtyard of a jail. As Professor Cox has observed with regard to the controversy, "[t]he demonstration was effective not merely because it focused the widest publicity upon the wrong but also because it challenged the establishment to the point of inviting arrest, thus demonstrating a courage and depth of conviction that might embolden others to throw off the bonds by which the community perpetuated racial injustice."<sup>128</sup> Professor Cox reasons that if the government, the people, and the press all knew that a constitutional right existed to protest on jail property, the *Adderley* demonstration "would have attracted no greater attention than a meeting in a park."<sup>129</sup>

New modes of expression may require fresh interpretations of the first amendment. But to suggest that all political expenditures may be constitutionally limited solely because the speech involved is usually disseminated through mechanical or electronic devices is inadvisable. Unless the first amendment is to protect only the unaided human voice, acceptance of a mode of expression test would add to difficult problems of line-drawing. Furthermore, curtailment of alternative modes of speech affects speakers unequally and weakens the concept of free expression. Mr. Justice Douglas, in his dissent in *Adderley*, eloquently points out that "those who do not control television and radio, those who can-

<sup>120</sup> See A. Rosenthal, *supra* note 31, at 23.

<sup>121</sup> 379 U.S. 528 (1965).

<sup>122</sup> *Id.* at 555.

<sup>123</sup> 338 U.S. 77 (1949). One of the strongest assertions of this position is found in Mr. Justice Frankfurter's dissent in *Sahn v. New York*, 334 U.S. 558, 562 (1948).

<sup>124</sup> 335 U.S. 367, 386-87 (1969). See *Sahn v. New York*, 334 U.S. 558, 562 (1948) (Frankfurter, J., dissenting); cf. *Joseph Burstyn, Inc. v. Wilson*, 343 U.S. 495, 503 (1952); *Muted States v. Paramount Pictures, Inc.*, 334 U.S. 131, 166 (1948). See also *Tinker v. Des Moines School Bd. Dist.*, 393 U.S. 503 (1969) (public school students wearing armbands as protest); *United States v. O'Brien*, 391 U.S. 367 (1968) (draft card burning); *see, Symbolic Conduct*, 68 Colum. L. Rev. 1091 (1968).

<sup>125</sup> 390 U.S. 611 (1968).

<sup>126</sup> See generally *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964).

<sup>127</sup> 335 U.S. 89 (1960).

<sup>128</sup> A. Cox, *The Warren Court* 111 (1968).

<sup>129</sup> *Id.* at 112.

not afford to advertise in newspapers or circulate elaborate pamphlets may have only a more limited type of access to public officials.<sup>122</sup> Conversely, perhaps those who cannot effectively make their views known in person should be allowed to speak through more advantageous, although more expensive, campaign methods. Ensuring a variety of modes of expression may be especially important in political contests, because the method of speech utilized may have a substantial impact upon campaign strategy and the outcome of the election.<sup>123</sup> This is not to say that campaign expenditures cannot be subjected to reasonable regulations; rather, any such regulation should not be based solely on the use of complex or advanced communications methods.

Limitation of spot advertising is another sensitive area of concern. The question is whether Congress could eliminate or retard certain styles of advertising. In the past decade, use of spot advertising on television has proliferated.<sup>124</sup> Because spot advertising is unique to the electronic media, the impact of its regulation falls on only one segment of the "campaign industry". However, the questionable value of such advertisements<sup>125</sup> may justify some form of regulation.

Yet, as Professor Rosenthal notes, limitation of spot advertisements would "take away from the candidate what is often an entirely legitimate means of communicating" and would allow the government "to mold the shape" of the candidate's campaign strategy.<sup>126</sup> Moreover, spot advertising may serve useful purposes. Voters who have little patience for lengthy discussion may find such short programs their best or only source of information about candidates. Although the cost of spot advertisements has escalated rapidly, these announcements are still substantially less expensive than longer periods of air time.

The debate over spot advertising illustrates the task of constitutional fact-finding. In order to pass a balancing test, limits on spot advertising, as on other types of paid advertising must be based upon an objective determination that the danger outweighs the value of the advertising to all participants.

2. *Distinguishing Among Media, Broadcasting.* As suggested above,<sup>127</sup> the degree of first amendment protection accorded paid political advertisements may depend upon the type of media to which a spending ceiling applies. For example, a distinction may be drawn between FCC-regulated broadcasting and the relatively unrestricted newspaper industry.

Since 1949,<sup>128</sup> the Federal Communications Commission has imposed a fairness-in-programming requirement on all broadcast licensees. This doctrine requires that "when a broadcast station presents one side of a controversial issue of public importance, reasonable opportunity must be afforded for the presentation of contrasting views."<sup>129</sup> In announcing the doctrine the Commission recognized "the paramount right of the public to be informed and to have presented to it for acceptance or rejection the different attitudes and viewpoints concerning . . . vital and often controversial issues. . . ."<sup>130</sup>

In *Red Lion Broadcasting Company v. FCC*,<sup>131</sup> the Supreme Court sustained the constitutionality of the fairness doctrine in general and the "personal attack" and "political reply time" doctrines in particular. The Court enunciated two bases for its decision: (1) the statutory mandate that broadcast facilities be operated in the public interest,<sup>132</sup> and (2) the public's right to free and open debate, as guaranteed by the first amendment.<sup>133</sup>

<sup>122</sup> *Adderley v. Florida*, 385 U.S. 39, 50-51 (1966) (Douglas, Brennan & Fortas, JJ., & Warren, C.J. dissenting).

<sup>123</sup> Any limitation of the methods of speech available indirectly restricts a candidate's choice of campaign strategy. Cf. Note, *Campaign Spending Regulation*, *supra* note 31, at 651. See also 1974 Hearings 94 (remarks of H. Alexander).

<sup>124</sup> E.g., R. MacNeil, *The People Machine*, *supra* note 14, at 204; B. Rubin, *Political Television 132* (1967); O'Toole, *Ad Executive Would Reform Campaign TV*, *Boston Evening Globe*, Nov. 22, 1971, at 1, col. 1.

<sup>125</sup> Note, *Campaign Spending Regulation*, *supra* note 31, at 647; 1970 Hearings 10 (statement of D. Burch, Chairman of the FCC).

<sup>126</sup> A. Rosenthal *supra* note 41, at 56. Cf. *Mills v. Alabama*, 384 U.S. 214 (1966). Particularly in the political arena, the type of speech utilized may be as important as the words chosen. If the government can eliminate spot announcements as "ineffective singing commercials," the next step may be a limitation on "misleading" or "inflammatory" campaigning. Yet the underlying purpose of the first amendment suggests that any subjective judgments concerning these speech techniques should be made not by the government but by an informed citizenry. See pp. 239-40 *supra*.

<sup>127</sup> See pp. 238-40 *supra*.

<sup>128</sup> Federal Communications Comm'n Report on Editorializing by Broadcast Licensees, reported in 12 F.C.C. 1246 (1949) (hereinafter cited as Report on Editorializing).

<sup>129</sup> Federal Communications Comm'n, Thirty-second Annual Report, Fiscal Year 1968 at 90.

<sup>130</sup> Report on Editorializing 1246.

<sup>131</sup> 385 U.S. 697 (1966).

<sup>132</sup> *Id.* at 375-80.

<sup>133</sup> *Id.* at 390. For a critique of the *Red Lion* approach, see Blake, *Red Lion Broadcasting Co. v. FCC: Fairness and the Emperor's New Clothes*, 23 *Yed. Com. B.J.* 78 (1966).

Assuming the continued validity of *Red Lion*, and the fairness doctrine itself,<sup>140</sup> the question of whether fairness concepts support the constitutionality of campaign spending ceilings in a particular advertising medium. This inquiry requires an understanding of the application of the fairness doctrine to controversies involving social and political advertisements.

In *Cullman Broadcasting Company*,<sup>141</sup> the FCC clarified the relationship between fairness time and paid sponsorship, stating that if one view of public importance is broadcast by paid programming, a licensee must, if requested, broadcast a contrasting viewpoint even if he is unable to obtain a paying sponsor. The impact of *Cullman* was probably not realized until it was applied to purchased "spot" advertising as well as to longer paid programming.

In 1967, the FCC announced its decision in *Matter of WCBS*.<sup>142</sup> In a controversial opinion, it stated that a licensee's statutory obligation to operate in the public interest included the duty to make fair representations concerning the "issue" raised by cigarette advertising. The grave danger to health from smoking and the frequency of cigarette advertising were said to require the presentation of anti-smoking views on a regular basis,<sup>143</sup> and without charge if the licensee was unable to obtain a paying sponsor.<sup>144</sup>

Although the Commission carefully stressed that its ruling applied only to cigarette advertising, the approach seemed applicable in other situations involving a similar or greater degree of public interest. This suggestion was supported by Chief Judge Bazelon, who explained in *Retail Store Employees, Local 880 v. FCC*<sup>145</sup> that the Commission's attempt to limit the *Cullman* approach to cigarette advertising would be interpreted to mean only that "the implicit and explicit messages normally carried by advertising do not concern controversial issues of public importance."<sup>146</sup>

The FCC has attempted with limited success to curb extension of *Cullman* to other paid advertising, thus refusing to find the requisite important public issue in armed forces enlistment advertising (peace),<sup>147</sup> automobile and gasoline announcements (safety and environmental hazards),<sup>148</sup> and Alaskan oil development publicity (environmental dangers).<sup>149</sup> In other controversies the FCC has narrowly defined the issues involved, thus limiting the scope of any required presentation of opposing views.<sup>150</sup>

Extension of the *Cullman* doctrine to paid political advertisements was considered in *Nicholas Zapple*.<sup>151</sup> The decision involved a hypothetical broadcast station selling air time to Candidate A, to an individual, or to a committee urging Candidate A's election. Although Candidate A does not personally appear, the candidate or issues are discussed. Candidate B or his position on the issues is criticized. An authorized spokesman, an individual, or a group supporting Candidate B then requests "fairness time". The Commission held that if the licensee has sold time to spokesman for Candidate A, it need not offer free time to Candidate B or to his spokesmen.

<sup>140</sup> See Barron, *Access—The Only Choice for the Media?* 48 Texas L. Rev. 766 (1970); Arrow, *The Equal Opportunities and Fairness Doctrines*, supra note 121. But see Kalven, *Broadcasting, Public Policy and the First Amendment*, 10 J. Law & Econ. 15 (1967); Parks, *Broadcasting and Censorship: First Amendment Theory After Red Lion*, 38 Geo. Wash. L. Rev. 974 (1970); Robinson, *The FCC and the First Amendment: Observations on 10 Years of Radio and Television Regulation*, 52 Minn. L. Rev. 67 (1967). In June, 1971, the FCC issued a notice of inquiry into the fairness doctrine and related public interest policies. The study is divided into four parts: (1) the fairness doctrine generally; (2) access to the broadcast media as a result of the presentation of product commercials; (3) access generally for discussion of public issues; and (4) application of the fairness doctrine to political broadcasts. See P & F Radio Reg. ¶ 53:451 (June 16, 1971) (FCC Dkt. No. 260).

<sup>141</sup> 40 F.C.C. 576 (FCC 1963).

<sup>142</sup> 9 F.C.C. 2d 921 (FCC 1967).

<sup>143</sup> *Id.* at 927.

<sup>144</sup> *Id.* at 941.

<sup>145</sup> 436 F. 2d 248 (D.C. Cir. 1970).

<sup>146</sup> *Id.* at 258. See *id.* at 258 n. 87.

<sup>147</sup> E.g., *San Francisco Women For Peace*, 24 F.C.C. 2d 156 (FCC 1970), *aff'd sub nom.* *Women v. FCC*, 447 F. 2d 323 (D.C. Cir. 1971); *Alan F. Neckritz*, 24 F.C.C. 2d 175 (FCC 70), *aff'd sub nom. Neckritz v. FCC*, 446 F. 2d 501 (9th Cir. 1971) (per curiam).

<sup>148</sup> *Friends of the Earth*, 24 F.C.C. 2d 743 (FCC 1970), *rev'd sub nom. Friends of the Earth v. FCC*, 22 P & F Radio Reg. 2d 2145 (D.C. Cir., Aug. 10, 1971).

<sup>149</sup> *National Broadcasting Co.*, 30 F.C.C. 2d 643 (FCC 1971) (fairness doctrine held inapplicable).

<sup>150</sup> E.g., *San Francisco Women For Peace*, 24 F.C.C. 2d 156 (FCC 1970), *aff'd sub nom. Women v. FCC*, 447 F. 2d 323 (D.C. Cir. 1971); *Alan F. Neckritz*, 24 F.C.C. 2d 175 (FCC 70), *aff'd sub nom. Neckritz v. FCC*, 446 F. 2d 501 (9th Cir. 1971); *Applicability of the Fairness Doctrine*, 2 P & F Radio Reg. 2d 1901, 1908 (FCC 1964).

<sup>151</sup> 23 F.C.C. 2d 707 (FCC 1970).

In the opinion the FCC first observed that the fairness doctrine was "plainly applicable" to the fact situation. The Commission reaffirmed its support of the general *Cullman* proposition that "the public's right to know cannot be defeated by the licensee's inability to obtain paid sponsorship for presentation of a contrasting viewpoint, even where the initial presentation was made under paid sponsorship."<sup>126</sup> But the Commission cautioned that his principle "[s]hould not have applicability in the direct political arena. . . . [I]t is our view that it would be inappropriate to require licensees to in effect subsidize the campaign of an opposing candidate . . . [S]uch requirement would be an unwarranted and inappropriate intrusion into the area of political campaign financing."<sup>127</sup>

If the Commission's conclusion rests upon the view that traditional fairness concepts<sup>128</sup> are inappropriate in the area of political advertising, then the congressional approach embodied in S. 382 and S. 3637 is undermined. Conversely, if practical considerations merely make the fairness doctrine a poor tool for administrative application to the political arena, the rationale of the doctrine may still support the constitutionality of spending limitations.

*Zapple* rests on an awareness of the practical impact of a contrary decision and should not be read to mean that fairness concepts have no application in regulating political speech. First, the issue of the benefit conferred by free time must be faced. In cigarette advertising, the person who demanded reply time received no personal gain from the free exposure; rather, the advantages of the free time inured to all listeners. In the political arena the candidate who receives free time receives a much more personal benefit: he gains exposure which he can then use in his campaign in other ways. Second, the Commission's reluctance to force individual stations to subsidize individual campaigns should not be brushed aside lightly. In areas with essentially one-party systems, the licensee might be forced to sustain the campaign efforts of the weaker party.<sup>129</sup> Application of *Cullman* fairness concepts to elections involving several "fringe" candidates would increase the likelihood of subsidization as well as raise difficult questions concerning time allocations.<sup>130</sup> In elections involving two candidates, a station providing *Cullman* fairness time could have its profit from paid political advertising cut in half. More substantial losses could occur in primaries and other contests with numerous contenders. So long as a single candidate purchased large amounts of air time, opposing candidates could demand free time under *Cullman*. Under such conditions the attractiveness to the candidate of regulated media for political advertising may be completely destroyed. The licensee's increased financial burden could be met in several ways.

If stations increase their rates for political advertising, campaign expenses of paying candidates would be raised. This would reduce disparities in information dissemination resulting from differences in wealth, but would also increase the danger from personal obligations to large contributors. Alternatively, the station might reduce the amount of political advertising time offered during each election. Although the fairness doctrine probably requires a station to carry at least some political advertisements, the doctrine does not set a specific level. Many stations would doubtless comply with fairness standards by offering less, but still equal, time for political advertisements, while increasing public interest programming in other areas. The question then becomes whether the expected increase in fairness of presentation would justify a reduction in the overall flow of political information. As a third alternative, a broadcasting station might absorb the costs of sponsoring air time for the non-paying candidate. Whether resulting in a reduction in station profits or an increase in overall advertising rates, the economic burden imposed by this alternative may be misplaced. Political

<sup>126</sup> *Id.* at 708.

<sup>127</sup> *Id.*

<sup>128</sup> Fairness concepts recognize the balance of viewpoints necessary, and the limited media resources available. See also note 144 *supra*; p. 246 *infra*.

<sup>129</sup> Faced with the prospect of having each purchased television advertisement countered by an opposing announcement provided by the station under *Cullman*, a particularly strong party might lower the amount of its broadcast advertising substantially and simply rely upon historic party preferences and party name recognition. Although the "fairness" of views presented on the broadcast media would remain the same, the total flow of political information to the public could be reduced. Furthermore, faced with the prospect of substantial campaign subsidization, a station might simply reduce the amount of political advertising it sells, while maintaining fairness in general programming. See also Committee for the Fair Broadcasting of Controversial Issues, 10 P & F Radio Reg. 24 1058 (FCC 1970).

<sup>130</sup> For the related problem that arises under the equal opportunities doctrine, 47 U.S.C. § 315(a) (1970), see 1296 Hearings 94 (statement of H. Alexander), 8 (statement of L. Rurch). See also Note, Campaign Spending Regulation, *supra* note 81, at 850-53.

ntroversy and the electoral process are intimately linked to the future of ition. "Cullman time" in political campaigns would represent a fundal change in the electoral process, and one which should perhaps await a legislative mandate. If the licensee must subsidize because of the public st, perhaps free air time should be made available to all candidates. If a must continually provide free time for a political party or group of fringe lates, perhaps the public as a whole (the government) should directly spon-s fairness time.<sup>341</sup>

use the *Zappie* opinion was delivered while Congress was considering the t of political campaign spending, the Commission may have felt coned to leave this policy choice to Congress. In a footnote to the *Zappie* deci-he Commission distinguished its support for congressional proposals call-r repeal of the section 315(a) equal time requirement of the Communica-Act of 1934.<sup>342</sup> The FCC asserted that those proposals are "directed to ing free time for coverage of political campaigns, and the opposing candi-not to providing free time to one side where the other side has purchased

summary, *Zappie* is based upon practical considerations and alternatives. CC's decision did not flow from a belief that the broad theory of fairness not be applied to electoral contests. Campaign spending ceilings would use practical problems similar to the *Zappie* subsidization issue. Expendi-mlts achieve fairness objectives by minimizing the disparity in the ability mininate information.

next inquiry is whether expenditure limits are consistent with the broad ts embodied in the fairness doctrine. As Professor Barrow commented, fairness doctrine is intended to facilitate robust dialogue on vital issues uring that licensees provide opportunity to present opposing viewpoints itroversial issues of public importance."<sup>343</sup> Campaigns clearly involve the its public issues.<sup>344</sup> In one sense, a spending ceiling facilitates dialogue on sines by preventing a particular point of view from monopolizing the

<sup>341</sup> The ceiling should thus encourage rational decision-making by offering oter a more balanced picture of political positions and concepts. ceiling need not ensure equality in presentation, for reasonable fairness that is required by the doctrine.<sup>342</sup> The basic problem centers on the level rmination provided. Although reasoned dialogue may be hampered if one s presented with far greater frequency, volume, and technical expertise ontrasting opinions, an overall level of information that is wholly inademy may make rational decision-making even more difficult. Any spending must be set at a level that will curb "excess" political advertising, and sure a level of political information adequate for voter choice.<sup>343</sup> But if a must be set at a level far above the campaign budget of a candidate 'average' financial support, direct subsidies to the candidate with less al backing may be necessary.<sup>344</sup> The important consideration at this junc-that the campaign expenditure ceilings are analogous to the FCC fairness ie. If government imposition of the fairness standard on the quasi-regulated

her practical considerations may have affected the Commission's refusal to extend imon doctrine to the *Zappie* fact situation. The possibly overlapping impact of ) offers one example. Unlike the fairness doctrine, this section applies only to ) candidates. Time is available only upon request of the candidate. Although fair-ionale requires only a reasonable opportunity for discussion of opposing views, 315(a) requires "equal time." If a sponsor for the reply doctrine is not available, he general fairness doctrine embodied in *Cullman* the licensee must provide free ing time while under § 315(a) the licensee must supply equal time only to a advertiser. In the absence of a congressional directive, the FCC may have been it to extend *Cullman* in a manner that would indirectly expand § 315. U.S.C. § 315 (1970).

bulas *Zappie* 23 FCC 2d 707, 708 n.1. (FCC 1970). The Commission's support al of the equal time requirements suggests that the FCC believed that the sub-i-ents imposed on licensees by an opposite result in *Zappie* would reduce the amount enal advertising time accorded by the stations. One of the strongest arguments in f repealing § 315(a) is that stations are reluctant to offer free time to major t because, "equal" free time must then be offered to all candidates for the post L. Particularly in elections in which numerous fringe candidates participate, the e burden of such equal time may substantially reduce the total free time made e.

row, *The Equal Opportunity and Fairness Doctrines*, *supra* note 131.

1 Nicholas Zappie 23 FCC 2d 707 (FCC 1970).

2 a few loud voices overpower the weaker voices of others, rational decision-making s difficult due to a reduction in the diversity of ideas presented.

3 compare the result if section 315(a) is applied. See note 101 *supra*.

4 the discussion of ceiling levels, p. 258 *supra*.

5 Note, *Campaign Spending Regulation*, *supra* note 31, at 660-67.

to fairness concepts is weaker when newspapers are considered. Although direct extension of the fairness doctrine to newspapers in the near future seems doubtful, its policies can be utilized to support the constitutionality of expenditure ceilings. The more diverse advertising media do not seem open to a demand for fairness objectives. But even for billboards and handbill printing, an argument for fairness can be made, based on the contribution of these advertising media to the total flow of political information. Excessive and monopolistic use of such an ordinarily open media may pose significant dangers to the achievement of an overall balance in information flow. Television and newspapers may be particularly apt subjects for the fairness doctrine, but the goal involved—facilitating dialogue on controversial and important issues by providing an opportunity for the presentation of opposing viewpoints—is applicable to the full spectrum of political advertising.

#### B. Regulating the source of expression

The protection afforded expression may also vary according to the entity causing the speech. For example, expression by corporations may be more easily abridged than that by a natural citizen. Labor unions, committees, and other aggregations of people may be subject to a different degree of first amendment protection.

1. *Corporation and Labor Unions.* Corporations have some, but not all, of the constitutional rights of individuals. The Supreme Court has repeatedly held that corporations are entitled to first amendment protection.<sup>125</sup> However, as Professor Rosenthal explains, the corporations in most, if not all, of these cases were in the business of communicating information to the public.<sup>126</sup> The protection accorded was related to the public's need to receive diverse ideas rather than to some independent corporate interest in communicating.<sup>127</sup> A distinct line may exist between editorials, news articles and advertisements in support of a candidate, on the one hand, and direct expenditures by corporations to finance a candidate's speeches and television programs, on the other. Although Rosenthal concedes that both types of speech may be protected,<sup>128</sup> he also urges that "it can probably be concluded that it is [constitutionally] easier to restrain corporate contributions than those of individuals."<sup>129</sup> His ultimate conclusion may be correct with regard to contributions, but at least some arguments against limiting corporate political expenditures merit consideration.

If the right of the hearer is emphasized in corporation free speech cases, full first amendment protection of corporate expression might be required. As previously indicated,<sup>130</sup> the right of the hearer is directed toward increasing the flow of diverse ideas. Viewed in this context, the source of the idea should be relatively unimportant. The key consideration is that individual thought has been stimulated. A corporation's position with regard to a political candidate may be just as important to a voter as a corporation's position on a national business issue is to a congressional committee. If the broad purposes of the first amendment are to be preserved, opinion and ideas from any source should be considered vital to the political decision-making process.

This argument assumes that the economic forces organized into corporate entities should be allowed a role in the political arena as well as in the market. An alternative position is that the market is the sole means through which a corporation, as an artificial economic creature, should influence the political process. This view, however, need not be fully accepted to justify imposition of campaign spending ceilings on corporate political expenditures. Expenditures by corporations, labor unions, and organizations with large concentrations of economic power pose a greater danger to the political system than spending that flows solely from a candidate's personal wealth.

Although contributions by organizations pose a threat of undue influence because of their concentration of economic power, contributions from the candidate's personal wealth may be also a substantial factor in altering the electoral process. The fear of improper influence exists when the candidate is motivated to run for office because of private business considerations. A candidate whose

<sup>125</sup> *F. g.*, *Time Inc. v. Hill*, 385 U.S. 374 (1967); *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964); *Kingsley Int'l Pictures Corp. v. Regents of New York*, 360 U.S. 684 (1959); *Joseph Burstyn Inc. v. Wilson*, 343 U.S. 495 (1952); *Grosjean v. American Press Co.*, 297 U.S. 233 (1935). *Cf.* *Red Lion Broadcasting Co. v. FCC*, 353 U.S. 267 (1956).

<sup>126</sup> A. Rosenthal, *supra* note 31, at 33-34.

<sup>127</sup> *F. g.*, *Grosjean v. American Press Co.*, 297 U.S. 233 (1935).

<sup>128</sup> A. Rosenthal, *supra* note 31, at 34.

<sup>129</sup> *Id.* at 33.

<sup>130</sup> See pp. 225-27 *supra*.



Thus, any difference between the practical number of sources available in the broadcasting and newspaper media seems to be narrowing. High barriers to entry and lack of access rights justify application of fairness principles to both media. Professor Barron asserts that,<sup>120</sup> "[w]ith the development of private restraints on free expression, the idea of a free marketplace has become just as unrealistic in the twentieth century as the economic theory of perfect competition. . . . The changing nature of the communications process has made it imperative that the law show concern for the public interest in effective utilization of the media for the expression of diverse points of view." The historical impetus for the first amendment was fear of the only institution at that time sufficiently powerful to control the amount and content of speech by and among citizens: the government. The true concern was arguably not the government *per se*, but the power to suppress speech which at that time resided only in the government. Technological change and two hundred years have given rise to mass media whose power over the amount and content of speech reaching the citizenry is perhaps as much to be feared today as that of the government. Television, radio, and major daily newspapers pose several particularly disturbing problems: (1) the media reach more citizens more often than any other mode of speech, and play a central part in the dissemination and discussion of political ideas; (2) a very limited number of persons controls a small number of outlets, and thus has effective power over the dissemination of expression; and (3) for those who do not have free access to the media, wealth is a primary determinant of the amount and type of expression communicated.<sup>121</sup>

Extension of fairness concepts to encompass both media can also be justified on grounds of economic reality and popular demand. To the extent that intra-medium or intermedia competition exists, individual stations and papers may cater to special interests. Competition for the available listener market may initially increase the diversity of information presented. However, the same economic drive will also result in presentation of only the most popular views.<sup>122</sup> This drive toward "popular programming" may be most apparent in the entertainment areas of the broadcasting media, but popular demand also influences the location, length, and slant of at least some newspaper reports.<sup>123</sup>

In contrast, use of the fairness rationale in other informational industries is questionable. Access to billboards, handbills, and bumper stickers seems much more open than access to such mass media as newspapers and broadcasting. If this assumption is correct, the problems of monopoly, economic and physical restraints, and popular censorship found in newspapers and broadcasting would be minimal in other advertising media. Thus, at least on fairness grounds, use of expenditure ceilings in these fields seems less compelling.<sup>124</sup>

In sum, the strongest argument for spending limitations can be made with regard to the broadcast industry, where at least some government regulation is already commonplace. Because the relative cost of broadcast advertising is also great,<sup>125</sup> spending ceilings in the radio and television industries may be the most effective way of reducing the present escalation of campaign costs.<sup>126</sup> The analogy

<sup>120</sup> Barron, *The Only Choice*, *supra* note 144, at 1678.

<sup>121</sup> FCC Commissioner Nicholas Johnson asserts that the "risks of concentration are grave." Johnson, *The Media Barons and the Public Interest in Mass Communications* 141 (W. Lineberry ed. 1960). "Most of the top 50 television markets (which serve approximately 75 per cent of the nation's television homes) have three competing commercial VHF television stations. There are about 150 such VHF commercial stations in these markets. Less than 10 per cent are today owned by entities that do not own other media interests. In 30 of the 50 markets at least one of the stations is owned by a major newspaper published in that market." *Id.* at 138. *See* T. Emerson *supra* note 53, at 627-29, 633-440. Raskin, *What's Wrong with American Newspapers?*, N.Y. Times June 11, 1967, § 6 (Magazine) at 28. *See generally* D. Lacy, *Freedom and Communications* (2d ed. 1965); R. Rucker, *The First Freedom* (1968); Reich, *Making Free Speech Audible*, *The Nation*, Feb. 8, 1965, at 123.

<sup>122</sup> *See Note, Regulation of Program Content by the FCC*, 77 Harv. L. Rev. 701, 704-06 (1964).

<sup>123</sup> *See generally* E. Efron, *The News Twisters* (1971); Shain, *Book Charges TV News Was Biased Against Nixon*, *Boston Sunday Globe* Oct. 2, 1971, § 1, at 1, col. 2.

<sup>124</sup> *See 1971 Senate Report No. 11*, "The definition of nonbroadcast communications media has been confined to newspapers, magazines and other periodical publications and billboard facilities."

<sup>125</sup> *See Note, Campaign Spending Regulation*, *supra* note 31, at 646. "Television and radio advertising time accounts for more than 20 percent of the expenses involved in modern campaigning. In 1968 combined political spending for television and radio broadcasts reached \$4.9 million dollars, a 70 percent increase over 1964. One recent survey indicates that 73 percent of United States senators in their most recent campaign prior to 1970 spent more than half their budgets on television time. Television advertising rates have increased faster than those of any other medium, except billboards." *See* F. Davis, *Presidential Primaries: Road to the White House* 237 (1967). 1970 Hearings 11, 23.

<sup>126</sup> *See Note, Campaign Spending Regulation*, *supra* note 31, at 646-48, 663-671, 72.

personal wealth is intimately tied to a business organization is more likely to vote in a manner which will aid that business than in a manner which will aid the business of an outside corporate contributor. This does not imply that in either case the candidate would ignore the pleas of most of his constituents. Rather, the suggestion is that if improper influence is a real danger, that influence may as easily flow from the candidate's private business ties as from obligations to outside contributors. The difficult question, of course, concerns the relative dangers posed by influence in most political contests.

Because corporate economic power can be so substantial, limiting its direct impact upon the electoral system is advisable. By pursuing this path, Congress would be urging that the "danger" from excessive corporate political expenditures, coupled with the corresponding risk of inappropriate personal obligations is far higher than the danger from individual contributions.

A similar analysis might justify distinctions among corporations, according to type of business. For instance, public utilities, banks, federally-incorporated companies, and government contractors might merit stricter controls.<sup>281</sup>

Federal legislation along these lines, prohibiting the contribution or spending of funds, has received some judicial attention, although the constitutional issues have not yet been faced. Two Supreme Court decisions have discussed section 304 of the Taft-Hartley Act,<sup>282</sup> which makes it unlawful for any corporation or labor organization "to make a contribution or expenditure in connection with any election for Federal office", or "in connection with any primary election or political convention or caucus held to select candidates" for such office. Both decisions involved labor organizations. In *United States v. CIO*,<sup>283</sup> the district court dismissed an indictment on the ground that the statute was invalid under the first amendment, urging that "no clear and present danger can be found in circumstances surrounding the enactment of this legislation." The Supreme Court unanimously affirmed,<sup>284</sup> but by construing the section not to prohibit publication of the campaign article involved.

The issue of union expenditures reached the Court some ten years later in *United States v. International, UAW*.<sup>285</sup> It held that the expenditures for advertising in favor of congressional candidates were covered by the act, and remanded the case to the district court for trial. The majority delayed consideration of the first amendment issue and a full trial record was available. Mr. Justice Douglas dissented declaring that section 304 was not "narrowly drawn" and that it "abolishes First Amendment rights on a wholesale basis." But he conceded that, "[i]f Congress is of the opinion that large contributions by labor unions to candidates for office and to political parties have had an undue influence upon the conduct of elections, it can prohibit such contributions . . . [I]n expressing their views on the issues and candidates, labor unions can be required to acknowledge their authorship and support of those expressions."<sup>286</sup> This position would seem to uphold campaign spending ceilings as well as contribution regulations and disclosure requirements. Carefully drafted legislation imposing spending limits on such groups and supported by adequate congressional findings of danger to the electoral process should receive constitutional support. The justification for such ceilings would be even more compelling if Congress could allege danger not only to the "conduct of elections", but to the operation of government itself.

**3. Committees and Associations.** The problem of campaign committees is particularly difficult. Campaign expenses are now generally paid for by one or several committees, rather than by the candidate himself. The incentives to use committees will be considerable if spending ceilings fail to cover them. If committee expenditures are not included, spending limits imposed on candidates become worthless.<sup>287</sup> To prevent the use of committees to avoid spending limitations, the ceiling in § 382 applies to all funds spent on behalf of a candidate, including those expended by committees.<sup>288</sup> No station or newspaper may charge for an advertisement on behalf of a candidate unless the candidate's representative certifies that the expenses will not violate the spending limitation. Although this technique minimizes committee avoidance practices, it increases first amendment problems. A candidate might refuse to approve the expenditures of some

<sup>281</sup> See A. Rosenthal, *supra* note 31, at 34.

<sup>282</sup> 18 U.S.C. § 610 (1970).

<sup>283</sup> 77 F. Supp. 355, 35A (D.D.C. 1948).

<sup>284</sup> 325 U.S. 106 (1948).

<sup>285</sup> 352 U.S. 567 (1957).

<sup>286</sup> *Id.* at 604 n.2 (Douglas J. dissenting).

<sup>287</sup> A. Rosenthal *supra* note 31, at 46.

<sup>288</sup> S. 382, 93d Cong., 1st Sess. §§ 102, 103 (1971).

committees, thereby abridging the members' interests in expression and association.

The danger to the electoral process from committee expenditures may be greater than that from unchanneled individual expenditures.<sup>16</sup> The importance of any associational rights may depend upon the type of committee concerned. The problem becomes especially difficult when "issue" committees are considered, because they involve weaker ties to the candidate and stronger interests in association. For example, environmental groups with substantial activities apart from the electoral process may wish to urge citizens to vote for candidates with strong conservation records. Expenditures by issue committees offer less danger to the electoral process than spending that directly urges the support of a particular candidate. Furthermore, curbing expenditures by such groups limits the public's right to receive information on vital issues. If input from issue oriented committees is curtailed, paid non-political advertisements by corporations concerning important public issues may have to be constrained.

However, an exemption of issue committees from any spending ceiling provides a significant loophole. Many candidates can be readily identified with a particular issue and could circumvent the spending limit by channeling contributions to the appropriate issue oriented group. Thus, unless a test can be devised to separate issue committees according to their beneficial impact on a candidate's campaign, limitations on both candidate and issue committees may be the only effective means of constructing a viable expenditure ceiling.

Given the serious free speech implications of imposing restrictions upon issue committees, however, Congress would be well-advised to utilize this type of limitation only where necessary to prevent wholesale circumvention of other expenditure ceilings. Moreover, because particularly close judicial scrutiny of issue committees will probably occur, a clear congressional position on the matter should be taken.

3. *The Candidate.* The existing distribution of personal wealth may create significant barriers to full participation in the political process and result in a distortion of viewpoints. Unless the candidate's own funds are included within the restriction on spending, the wealthy office-seeker will have a considerable advantage over an opponent who lacks personal wealth. The dangers of unequal access and improper influence ultimately flow from the candidate himself. By limiting the candidate's expenditures of personal and contributed wealth, the spending ceiling makes a direct attack on the problem. This direct approach is dependent upon simultaneous limitations on alternate sources of speech. This dual approach might reduce the admitted dangers of excessive political expenditures at a minimum cost to free expression. A possibly more direct approach, relying on contribution limitations and personal expenditure ceilings, raises even more significant first amendment problems.<sup>17</sup>

The right of the hearer to adequate political information is of course abridged by a ceiling on candidate expenditures. To the extent that the ideas of the candidate do not reach the marketplace of thought, voter choice is impaired. Under the Meiklejohn view of the importance of political ideas,<sup>18</sup> limitation of a candidate's expression is especially repugnant to first amendment principles. Ultimately, any ceiling on candidate expenditures must be a strictly-drawn limitation on the overall flow of ideas. If the public is unable to make informed choices concerning its elected representatives, the flow of ideas in social and economic areas may be less meaningful. Yet, information from sources other than the candidate is still available, depending upon the scope of the expenditure ceiling.

4. *The Individual.* Just as the candidate may not have a right to speak in any manner at any time and place, neither do non-candidate individuals. Whether restriction of an individual's expenditures is viewed more seriously than limitation of a candidate's spending depends upon one's view of the Meiklejohn approach. If the purpose of the first amendment is to maximize the diversity of ideas, then restriction of individual expenditures may be most serious. But if the goal is to facilitate voter decision-making by promoting an understanding of each candidate's position, then limitation of individual expenditures may seem more justified.

<sup>16</sup> A. Rosenthal *supra* note 11 at 27. The effectiveness of committee organization may also be viewed as a justification for first amendment protection. The argument is that freedom of speech does not merely mean freedom of ineffective speech, but also freedom of effective expression. Thus the amendment would mean little in an age of radio media if it protected only the human voice in Central Park.

<sup>17</sup> *Id.* at 9-40.

<sup>18</sup> See pp. 226-227 *supra*.

Similarly, the danger posed by individual spending may be far less than that flowing from organizational expenditures. This position would seem strongest when the individual directly participates in the "speech" purchased, for example, by making a personal appearance in a television announcement rather than supporting an anonymous ad. If any absolute first amendment right exists, it is the right of the individual to express himself through his own voice and being. This proposition, however, encounters two difficulties. The first is historical, the second analytical.

The first amendment was intended to provide special protection to speech uttered by individuals. However, to be effective, individual thoughts may have to be printed, amplified, or even stated by another. Speaking of prior restraints on speech in *Near v. Minnesota*,<sup>282</sup> Mr. Chief Justice Hughes offered one example of this view: "The exceptional nature of . . . [first amendment] limitations places in a strong light the general conception that liberty of the press, historically considered and taken up by the Federal Constitution, has meant, principally, although not exclusively, immunity from previous restraints or censorship. The conception of the liberty of the press in this country had broadened . . . with the efforts to secure freedom from oppressive administration."<sup>283</sup>

Even if the first amendment provides special protection to the natural speech of individuals, difficult problems of line-drawing may arise. For example, one might inquire whether printed or amplified speech is automatically entitled to less protection than expression made without mechanical aids. A similar inquiry would be whether a candidate or a corporate or committee officer could speak solely in a "private" capacity. For example, if an individual's right to speak is entitled to special protection, what treatment should be accorded a purchased announcement by the head of a powerful labor union if the advertisement was paid for by the union leader making the speech? If the announcement could be given special protection, the result would offer a substantial loophole in the spending limitation. If an exception to the special individual protection approach were urged on account of the prominence of the speaker, that appropriate criteria could be devised to justify this decision is doubtful.

The prime difficulty in urging a special standard for speech uttered by individuals stems from the conflict of two factors. Because of the apparent "governing importance" of first amendment rights, an analytical tendency exists to search for an ultimate stronghold of free expression. In conflict with this factor, individual speech and expenditures contribute to the total danger of excessive political spending.

Although individual spending may be separated from other electoral expenditures for purposes of discussion, the total amount spent on behalf of a candidate may be a danger in itself. An excessive figure may deter an otherwise able person from entering the political arena, even if no problems of improper influence actually exist. Such a figure may give the appearance of improper contributor influence and undermine the confidence of the electorate in its public officials. Again, the problem is one of balancing the perceived dangers to the political process against the abridgement of free expression. To the extent that individual spending can be viewed independently from expenditures from other sources, the danger involved seems less serious. If certain forms of individual expression could be exempted from an over-all spending ceiling with only minimum danger to the electoral process, inclusion of such expenditures in the limitation would be unjustified. A ceiling on individual political spending is a serious infringement upon traditional concepts of free expression. Individual spending should be curtailed only if it poses a direct and substantial danger to the political process which cannot be effectively controlled by alternative measures.

#### IV. CONCLUSION

Determination of an appropriate level for an expenditure ceiling is fraught with practical difficulties. The political vulnerability of this process was underscored when, as part of his veto of S. 3637, President Nixon observed that the pending ceiling in that legislation resulted from legislative compromise rather than from thorough investigation.<sup>284</sup> In its newest attempt to set an expenditure ceiling, the Senate Committee on Commerce specifically discussed the investiga-

<sup>282</sup> 283 U.S. 697 (1931).

<sup>283</sup> *Id.* at 716-17.

<sup>284</sup> 116 Cong. Rec. 818724 (daily ed. Nov. 22, 1970) (President's veto message); see *id.* at 818730 (remarks of Senator Goodell).

tive process used to determine the appropriate limitation.<sup>205</sup> These practical problems are central to the protection of the interested parties' constitutional rights.

The first concerned party is the candidate, particularly the unknown office seeker. In many elections the incumbent or well-known candidate starts with large advantage.<sup>206</sup> If the expenditure ceiling overly restricts the unknown candidate's ability to campaign, he may not be able to overcome this barrier to election.<sup>207</sup> On the other hand, if the limit is too high, the same financial problem that we currently face will continue. Furthermore, if campaign committee expenditures are charged against his ceiling, the candidate's own ability to speak will be unduly restricted.

Campaign committees are the second interested party. Any effective maximum must control committee expenditures on behalf of candidates. However, these committees sometimes serve as voices for the donors as well as for the candidates.<sup>208</sup> Because the most feasible means of control is to require a candidate's written approval of advertising on his behalf, the committee must, of necessity, lose some control of its right to speak. At least two arguments support the inclusion of committee expenditures in the spending ceiling. First, the circumstance is unique because the candidate restricts speech made for his benefit. Second, such control increases voter knowledge of who is backing a particular candidate.<sup>209</sup> These considerations must be balanced against "the interest in having every spectrum of views expressed and heard."<sup>210</sup>

The individual voter is another interested party. A campaign spending ceiling, if properly drawn, can give the voter a more balanced presentation of the issues, while minimizing the pre-election barrage of commercials.

Ultimately, the validity of any particular level of a spending limitation will be determined by balancing the needs for some form of ceiling against the potential infringements on speech. Unfortunately, current measures do not reflect the careful analysis necessary to ensure that first amendment rights are fully preserved.<sup>211</sup>

—H. LEONARD COURT  
—CHARLES E. HARRIS

#### MISCELLANEOUS

[From the Washington Post, Nov. 30, 1972]

#### THE GALLUP POLL—70 PERCENT WOULD CUT CAMPAIGNS IN TIME, COST, MUDSLINGING

(By George Gallup)

Princeton, N.J.—Seven in 10 Americans would like to see changes in the way political campaigns are conducted. Leading the list of gripes are the high cost of campaigns and "too much mudslinging."

Next on the list of sought-for changes are "a greater discussion and definition of the issues" and a shorter campaign.

To a certain extent, the widespread voter apathy this year can be charged against the lengthiness of the presidential campaign and the way it was conducted. Voter turnout on Nov. 7 was the lowest since 1948. The percentage of election-night TV viewers was down sharply from the percentage recorded in 1968.

Persons were asked specifically about a proposal for a law which would put a limit on the total amount of money that can be spent for or by a candidate in his campaign for public office.

<sup>205</sup> 1971 Senate Report 28, 29, 30, 35, 36.

<sup>206</sup> A. Rosenthal, *supra* note 31, at 43-44; 116 Cong. Rec. S18724 (daily ed. Nov. 23, 1970) (President's veto message).

<sup>207</sup> *Id.*

<sup>208</sup> See pp. 254-56 *supra*.

<sup>209</sup> See Rody, *Ten Years of Florida's "Who Gave It—Got It" Law*, 27 Law & Contemp. Prob. 434 (1962). Nevertheless, laws aimed directly at disclosure may be more effective for this purpose and impose a lesser burden on expression. Florida did not have expenditure limitations when the Rody article was written. Limits on expenditures were enacted in 1970. 1970 Fla. Laws ch. 70-267.

<sup>210</sup> A. Rosenthal, *supra* note 31, at 47.

<sup>211</sup> See Oberdorfer, *The Purchase of Power*, *supra* note 9; Note, *Campaign Spending Regulation*, *supra* note 31. For a sample of the legislative history involved, see note 34 *supra*.

Seven in 10 (71 per cent) say they would favor such a law, 18 per cent are opposed, while 11 per cent do not express an opinion.

Basic in the thinking of many Americans is the belief that every person should have an equal chance to run for office and that money should not be a controlling factor.

Although current laws are designed to control the amount that a person can contribute to a campaign, these laws can be avoided or evaded in many different ways.

Today's report is based on in-person interviews with 1,205 adults, 18 and older, interviewed in more than 300 scientifically selected localities across the nation. These are the questions and national results:

*"Would you like to see any changes in the way political campaigns are conducted?"*

	Percent
Yes -----	70
No/No Opinion -----	30

*"Would you favor or oppose a law which would put a limit on the total amount of money which can be spent for or by a candidate in his campaign for public office?"*

	Percent
Favor -----	71
Oppose -----	18
No opinion -----	11

[From the New York Times, Nov. 26, 1972]

#### CABLE TELEVISION OFFERS BOON FOR FINANCIALLY PRESSED CANDIDATES—NIXON GAIN FOUND FROM HIS TV ADS

##### DEMOCRATIC DEFECTORS SAY COMMERCIALS LURED THEM

(By Warren Weaver, Jr.)

Washington, Nov. 25.—Evidence that Democratic voters who switched to President Nixon during the 1972 campaign were held in their new allegiance by his television commercials has been developed by two political scientists at Syracuse University.

These defecting Democrats remembered more about the Nixon political spots than any other group of voters, including Republicans, and had a considerably more favorable response to them than other groups, half again as favorable as Republicans, according to the Syracuse study.

Of the sample of voters first interviewed in Onondaga County in mid-September, 34 per cent of the Democrats than favored President Nixon. In the last week of the campaign, 91 per cent of these defectors were still backing the Republican nominee, although some may have changed their minds in the voting booth.

These figures were developed by Robert D. McClure and Thomas E. Patterson of the Syracuse political science faculty in one of the relatively few attempts to determine the political impact of media campaigning on the actual election results.

##### THREE GROUPS OF VOTERS

The conclusions of the Syracuse study are still tentative. As of now, they are based on the responses of about 175 of the 625 local voters who were interviewed three times during the fall campaign. This sample is about equally divided among Nixon voters, persons who voted for his Democratic opponent, George McGovern and those who switched from one.

All the figures were hand calculated to meet the deadline of a campus conference on media and politics, and the two political scientists expect much more solid results some time next year, after all the interview material has been processed and analyzed by computer.

Of the Democrats favoring President Nixon, 73 per cent could recall his commercials and those attacking Senator McGovern. The same television spots were

remembered by 67 per cent of other Democrats, 63 per cent of independents and 58 per cent of Republicans.

When asked if there was something they liked about the Republican television campaign, 60 per cent of the defecting Democrats said there was, compared with 38 per cent of the Republicans, 16 per cent of the other Democrats and 15 per cent of the independents.

"Defecting Democrats found reinforcement for their voting decisions in the Nixon commercials," Dr. McLure and Dr. Patterson wrote. They continued: "Most of these voters were voting against George McGovern as much as for Richard Nixon, and the direct attack on George McGovern of many Democrats for Nixon' commercials provided reasons for their decisions—and the comfort of knowing there were many other Democrats like them."

#### LITTLE VOTER KNOWLEDGE

Among the other findings of the Syracuse political scientists were these:

During election week, at the highest level of political activity, a quarter of the voters interviewed could not remember seeing any television spots and about half could not remember reading about the election in the newspapers or discussing it with anyone.

Among voters who switched candidates, 75 per cent of those with a high level of political information went to Senator McGovern while 58 per cent of those with a low information level went to President Nixon.

The Watergate episode, which had little effect on changing votes although many people remembered it, would probably have had more impact if it had happened earlier, before it seemed a part of the campaign rhetoric and thus questionable to some voters.

The Vietnam peace initiative late in the campaign appeared to have been more responsible for shifts to Senator McGovern by voters who suspected political contrivance than for shifts to President Nixon by those who saw new hope for peace.

McGovern voters were considerably more antagonistic toward the Nixon commercials than Nixon voters were toward the generally blander McGovern broadcast spots.

The political scientists concluded of the Nixon commercials: "Although it is highly speculative, these commercials seemed to have kept many of these voters from returning to their party's nominee. Unlike 1968, Democratic defectors did not return in huge numbers during the waning days of the campaign, and the 'Democrats for Nixon' commercials seem partly responsible."

(From the New York Times, Nov. 5, 1972)

#### CABLE TELEVISION OFFERS BOON FOR FINANCIALLY PRESSED CANDIDATES

(By Warren Weaver, Jr.)

Concord, Calif., Nov. 1 —Pete Stark and Lew Warden got a free half-hour of television time last night to continue their running battle for California's Eighth Congressional District seat.

Their spirited debate was piped into the homes of some 40,000 voters, about a quarter of the total number likely to participate in next Tuesday's election in the district, and replays will make it available to thousands more within the next few days.

A big break for publicity-hungry Congressional contenders? No, probably only a small one. For this was cable television, a medium that offers a tremendous potential for campaigning in the future but can command only scattered audiences today.

The lively Stark-Warden interview was shown on Channel 6, the public service outlet of Concord TV Cable, all of whose subscribers have 11 other commercial channels to choose from bringing in a broad range of competitive entertainment from San Francisco, Sacramento and intermediate points.

#### MANY ARE UNAWARE

Channel 6 went on the air last April, and no one knows how many of the 20,000 homes in the system are using that channel during its two hours of local programming. Officials discovered from a current viewer survey that many are still unaware that the public service channel was operating.

In a comparable cable system in Berkeley, the weekly amateur hour draws some 250 telephone and postcard votes. The actual audience, perhaps three or four times that large, is worth courting for a House candidate, but falls far short of the impressive numbers that commercial television offers for its spots and longer programs.

Despite currently limited audiences, cable television's public service channels are attracting more political candidates than ever before. The situation is true here in California, where the medium developed early, and elsewhere in the country among the clusters of six million cable-supplied homes.

#### SOME SELF-INTEREST

In some instances, the cable systems have merely maintained an open door, welcoming any candidate who wants to come and talk. In others, spurred by the National Cable Television Association, systems have actively solicited political appearances by local office-seekers.

The motivation is not entirely public service. Congress makes the laws under which the television system must operate and city councils license and regulate them. The more friends, or at least understanding listeners, the industry has in such groups, the better off it is.

For candidates eager to promote their personalities and issues, cable television has the following undeniable advantages:

Unlike commercial television, with the relatively few channels clogged during prime time, cable has almost unlimited time available on its public service channels, more than enough for all the House, state legislature and local nominees, who are rarely able to command attention otherwise.

The almost prohibitive cost of commercial television spots and longer programs drove Congress to enact spending limits for national candidates. Time on cable television, generally, is free; a few channels sell spots, but the rate is something like \$25 for a minute that might cost \$1,200 on a commercial station.

For candidates running less than statewide, cable is a total blessing. Many systems are small enough so that their subscribers are all within a legislative district, and a candidate's attention are not wasted on viewers who cannot vote for or against him.

With a few exceptions, like New York, most communities with cable systems do not have antenna-reception commercial television at all, so that cable becomes the only way to reach the voters in wholesale lots, other than radio and direct mail.

But the audience problem remains critical. How many people ignored 11 alternative programs and switched over to Channel 6 last night to watch Mr. Stark, the Democrat, spar with Mr. Warden, his underdog Republican opponent? Probably not very many.

There are about 2,900 cable systems now in operation, but about 1,400 of them are purely transmission facilities, with no studios or cameras of their own. Nine hundred others can only broadcast a sort of continuous slide program of still photographs and notice cards.

#### ORIGINATION A PROBLEM

That leaves about 600 capable of putting on their own systems like Concord TV Cable or Bay Cablevision in Berkeley, or more imposing ones like Mission Cable TV in San Diego, which has 68,000 subscribers and an active program of political broadcasting this fall.

"Local origination is the bastard child of cable," said David Green, who directs such programming for Bay Cablevision. "Many systems still don't want to do it. To build up audiences, there has to be a movement toward network, to do something together. Also development of real community identification with what we're trying to do."

Bay Cablevision is part of an improved network of cable systems that is bringing the University of California football games to some 150,000 subscribers this fall. This potential audience is big enough so that Democratic Representative Ronald W. Dellums of Berkeley has purchased two \$25 one-minute spots during the games.

The Presidential candidates have not made any attempt to get on cable, but the Pacific system shot an entire Cow Palace speech by Senator George McGovern and gave a copy to the Berkeley channel, which has been showing it about once a week ever since.



[From the New York Times, Nov. 3, 1972]

**MANY CONGRESSMEN WITH LITTLE OPPOSITION AMASS CAMPAIGN FUND**

WASHINGTON, Nov. 2.—Many influential members of Congress who are running for re-election this year without significant opposition have nonetheless amassed sizable campaign treasuries.

Some of these men have spent much of their money on easy primary races or on campaign organizations that were set up before it was clear that they would have no opponent.

Others have passed along a portion of their contributions to other candidates who are in contested races.

But most of these powerful legislators have apparently squirreled away most of their contributions for use in future campaign when the money might be needed.

The fact that these men who are running unopposed or against feeble opposition could raise so much money is testimony to their influence on legislation and in political affairs. Many of them have far larger campaign chests than junior members of the House who are in tough races for re-election.

All incumbent Senators who are running for re-election have some opposition. There are some, however, like James O. Eastland, Democrat of Mississippi, chairman of the Judiciary Committee, who raised large amounts to campaign against an opponent who posed no threat.

Representative Hale Boggs of Louisiana, the House majority leader, whose plane was lost over Alaska last month, was able to raise more than \$100,000.

Mr. Boggs spent about 24,000 this year on a primary race in which he had taken opposition and won with 84 per cent of the vote. With no opposition in the general election, the rest of his money has gone unspent, according to reports he filed with the Clerk of the House.

Most of Mr. Boggs' campaign chest was raised before the new financial disclosure law went into effect April 7, and, thus, the donors have not been reported.

But, among those who contributed to his campaign after April 7 were the chairman of the International Business Machines Corporation, the president of the Kennecott Copper Corporation and the president and nine vice presidents of the Kaiser Aluminum and Chemical Corporation.

To take another example, Representative Al Ullman of Oregon, the second ranking Democrat on the Ways and Means Committee, raised more than \$50,000 this year and, having no opponent in either the primary or the general election, spent only about \$5,000.

The Ways and Means Committee has jurisdiction over all tax and trade legislation. Mr. Ullman's contributions came from both business and labor, most of it as a result of two fund-raising dinners early in the year.

Mr. Ullman said that he wrote to all of his donors in August when it became apparent that he would have no opposition and offered to return the money, but, he said, there were no takers.

This was the first time that Mr. Ullman's seat had not been contested, and he suggested that his large war chest may have been one of the reasons that no one was willing to do battle against him.

He said he would keep most of the money in a bank account and use it to keep his name before his constituents. He will also use it in his campaign two years from now.

The Speaker of the House, Carl Albert of Oklahoma, and the House Republican leader, Gerald R. Ford of Michigan, have both amassed large campaign funds even though they have no significant opposition.

Mr. Albert, who won with 84 per cent of the vote in a primary contest at which he has no opponent in the general election, raised about \$40,000 and spent less than \$7,000. Mr. Albert could not be reached for comment on what he would do with the rest of the money.

Mr. Ford is expected to win easily in Tuesday's election against the same Democratic opponent who got less than 40 per cent of the vote against him two years ago. Through the middle of October, Mr. Ford had raised more than \$150,000. He had spent about \$90,000, much of it in contributions to other Michigan Republicans. Senator Robert F. Griffin, for example, received at least \$2,000 from Mr. Ford.

## LARGE EXPENDITURES

Some powerful House members spent large sums of money on primary campaigns in which their opponent was no real threat.

An example is Representative Robert L. F. Sikes, Democrat of Florida, the chairman of the Military Construction Appropriations Subcommittee. He spent \$35,000 before a primary election in which he received 80 per cent of the vote.

Some influential legislators, however, received and spent no money, or only token amounts, in a year that they were running unopposed. Examples include Representative George H. Mahon, Democrat of Texas, chairman of the Appropriations Committee; Joe D. Waggoner Jr., Democrat of Louisiana, leader of the Southern bloc in the House, and Edward P. Boland, Democrat of Massachusetts, head of the Housing and Urban Development Appropriations Subcommittee.

Representative Wilbur D. Mills, Democrat of Arkansas, chairman of the Ways and Means Committee, raised no money for his re-election to the House but received considerable amounts for his bid for the Democratic Presidential nomination.

Members of Congress who receive no contributions, however, are able to reinforce their positions of influence by directing their potential donors to give money instead to other specific candidates.

While members holding positions of influence were able to command contributions even when they had no opposition, many junior members had trouble raising enough for a campaign.

An example is Representative David R. Obey, a Democrat from Wisconsin in his second term. Last month he told the Congressional Action Fund, an organization that aids liberal Congressmen, that he needed \$40,000 for a successful campaign and had been able to raise only a quarter of that.

NEWS FROM THE TWENTIETH CENTURY FUND,  
*New York, N.Y., March 27, 1973.*

Despite very low taxpayer response to the new 1972 tax check-off provision for public financing of presidential campaigns, many voters are in fact prepared to make contributions, according to David Adamany and George Agree, who are undertaking a comprehensive study of campaign financing for the Twentieth Century Fund.

Adamany, associate professor of political science at the University of Wisconsin, and Agree, director of the Committee for the Democratic Process, made their assertion in releasing preliminary findings of their study for the Fund, a non-profit and nonpartisan foundation that sponsors research on economic, political and social issues.

The Internal Revenue Service has disclosed that less than 3 per cent of the first 21 million persons filing tax returns made use of the check-off system. But a survey of voter attitudes carried out last December specifically for the Fund study by the University of Chicago's National Opinion Research Center indicated that a far larger number of taxpayers—45.2 per cent of those surveyed—would participate in the check-off if they knew how the system worked.

The discrepancy between the survey and the actual results, Adamany and Agree have concluded, stems from lack of knowledge about the check-off as well as the inconvenience of having to use separate and frequently unavailable tax forms.

Under the tax check-off plan, which was enacted as part of the 1971 Revenue Act, taxpayers can designate one dollar of their tax payments for the 1976 presidential campaign of their political party or for a nonpartisan fund to be divided among the major and minor parties. The plan must be approved by Congress if it is to go into effect for 1976.

Adamany and Agree point out that the NORC survey revealed that only 36 percent of the respondents had any knowledge about the plan. When its provisions were spelled out, however, 53 percent of those surveyed said they favored it, 33 percent were opposed and 14 percent had no opinion. (Tables of the survey's findings are attached.)

The authors of the forthcoming Fund study claim that the check-off plan has the potential for vastly broadening public participation in campaign financing by increasing the number of contributions from taxpayers in low and middle in-

groups, which also will make their participation more representative of their  
etc.

Our study will examine and analyze various methods of campaign financing  
will make a number of policy recommendations. The Fund expects to issue  
book-length form in 1974.

#### EXCERPTS FROM A SURVEY OF VOTER ATTITUDES ON PRESIDENTIAL CAMPAIGN FINANCING<sup>1</sup>

- 1) As of the time of the survey, 36% of those interviewed said that they had  
heard "something" about the check off plan.  
64% of those interviewed said that they had heard "nothing" about the check  
off plan.
- (2) After the check off was explained, first as a package, then provision by  
provision, 53% of those surveyed said they favored the check off idea, 33% said  
they were opposed, and 14% expressed no opinion.
- (3) 45.2% of the respondents said they were likely to check off one dollar,  
12% were not, and the rest either did not pay taxes or were undecided.

TABLE I

Income groups	Percent of persons contributing to campaigns in 1968 <sup>1</sup>	Percent of persons who indicated willingness to participate in check-off, December 1972 <sup>2</sup>
0 to \$4,999	3.0	37.5
\$5,000 to \$9,999	7.6	45.2
\$10,000 to \$14,999	8.4	45.7
\$15,000 to \$19,999	14.3	50.9
\$20,000 to \$24,999	16.7	52.2
\$25,000 and up	30.6	52.0

<sup>1</sup> All ranges 7.8 percent of total population made contributions.

<sup>2</sup> All ranges 45.2 percent.

TABLE II

Income ranges	Percent of interviewees in 1968 survey <sup>1</sup>	Percent of total number of contributors in 1968 (not to be confused with dollar amounts)	Percent of interviewees in 1972 survey <sup>2</sup>	Percent of total number of checkoffs in 1972 survey <sup>2</sup>
0 to \$4,999	29.0	11.1	16.6	20.0
\$5,000 to \$9,999	39.1	38.5	31.4	31.1
\$10,000 to \$14,999	20.6	22.2	25.1	25.5
\$15,000 to \$19,999	6.0	11.1	14.6	13.3
\$20,000 to \$24,999	2.0	4.3	4.3	3.3
\$25,000 and up	3.2	12.8	7.0	6.6
Total	99.9	100.0	100.0	100.0

<sup>1</sup> From a 1968 national survey by the Survey Research Center, University of Michigan, using 1,507 persons.

<sup>2</sup> From the 1972 comprehensive survey on campaign financing conducted for the Twentieth Century Fund by the National  
Survey Research Center, University of Chicago, using a national sample of 1,481 persons.

Twentieth Century Fund by the National Opinion Research  
Center, a national sample of 1,481 persons.

FEDERAL COMMUNICATIONS COMMISSION,  
Washington, D.C., April 9, 1973.

HON. JOHN O. PASTORE,  
Chairman, Subcommittee on Communications, Committee on Commerce, U.S.  
Senate, Washington, D.C.

DEAR MR. CHAIRMAN: It has been brought to my attention that during the March 9 testimony of Dr. Stanton and Mr. Wasilewski on S. 372, the question was raised as to whether the Federal Communications Commission should promulgate further guidelines relative to section 312(a)(7) of the Communications Act as amended by the Federal Election Campaign Act of 1971. Section 312(a)(7) makes it a ground for revocation of a broadcast station license or construction permit for a licensee to willfully or repeatedly fail to "allow reasonable access to or to permit purchase of reasonable amounts of time for the use of broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy."

As you know, the Commission adopted a Public Notice in question and answer form (37 Fed. Reg. 5796, March 21, 1972) in which we attempted to give as much guidance as possible to candidates and broadcasters with respect to the portions of the Federal Election Campaign Act of 1971 related to our functions. Section VIII thereof deals with section 312(a)(7).

With respect to Dr. Stanton's deference to whether news coverage is considered to be "access" under section 312(a)(7), Q. and A. 4 of section VIII states that the "use" of a station for purposes of administering section 312(a)(7) is the same "use" as that which triggers equal opportunities under section 315. News broadcasts and bona fide news interviews are specifically exempt from the equal time requirements by section 315(a). Thus, such exempt news coverage would not be considered "access" under section 312(a)(7). However, the extent and character of such coverage of a campaign and a candidate may well be relevant factors, along with other considerations, in determining whether a licensee's actions in a particular case have been reasonable.

As I mentioned in my statement presented to the Subcommittee on March 8, 1973, it would certainly seem that the Commission must look at the reasonableness of the stations' actions. This is the same basic philosophy used by the Commission in ruling on fairness doctrine cases where we do not substitute our judgment for that of the licensee but determine whether the licensee acted reasonably and in good faith in fulfilling his obligations. And again, as I said in my statement, it would seem that a station's actions would have to be clearly unreasonable before the Commission would take the most serious step of revoking a license.

The Commission's Public Notice does not offer guidelines in the form of any formula of how many minutes a station must sell or give a candidate for Federal office to comply with section 312(a)(7). It does, however, list eleven specific questions and answers as guidance to the "reasonable access" problem. In discussing how a licensee is to comply with this requirement, we note in answer 8 of section VIII:

"Congress clearly did not intend, to take the extreme case, that during the closing days of a campaign stations should be required to accommodate requests for political time to the exclusion of all or most other types of programming or advertising. Important as an informed electorate is in our society, there are other elements in the public interest standard, and the public is entitled to other kinds of programming than political. It was not intended that all or most time be pre-empted for political broadcasts. The foregoing appears to be the only definite statement that may be made about the new section since no all-embracing standard can be set. The test of whether a licensee has met the requirement of the new section is one of reasonableness. The Commission will not substitute its judgment for that of the licensee, but, rather, it will determine in any case that may arise whether the licensee can be said to have acted reasonably and in good faith in fulfilling his obligations under this section.

"We are aware of the fact that a myriad of situations can arise that will present difficult problems. One conceivable method of trying to act reasonably and in good faith might be for licensees, prior to an election campaign for Federal offices, to meet with candidates in an effort to work out the problem of reasonable access for them on their stations. Such conferences might cover, among other things, the subjects of the amount of time that the station proposes to sell or give candidates, the amount and types of its other programming, the 7-day rule, and the amount of advertising it proposes to sell to commercial advertisers."

In my testimony, I noted that "in attempting to ascertain what is reasonable under all the circumstances, a number of variables must be considered—such as the office involved, the number of candidates for that office, the number of candidates for all offices within the station's service area, the station's overall coverage of the various campaigns, and questions of spot versus program time, prime time coverage, etc."

As you recognized during my March 8 testimony, it is extremely difficult to legislate guidelines when the criteria would involve a myriad of situations. For example, in the New York City market where a major TV station covers part or all of 42 Congressional districts which could account for some 84 candidates in a general election, plus candidates for the Senate in New York, Connecticut, and New Jersey plus, in a Presidential election year, candidates for President and Vice President, the sale of a very few minutes to each candidate might be found to be reasonable. On the other hand, where a TV station covers but one Congressional district, the sale of two or three minutes to each candidate may be unreasonable. Admittedly, these are the extremes, but in between these extremes there are countless variations of situations with different numbers of candidates within the stations' service areas.

All the mentioned variables, plus possibly others, must be considered. It is the Commission's view that this can best be done in the context of considering complaints on an *ad hoc* basis as actual cases arise. Over a period of time, this procedure should create a more realistic body of precedent for guidance and future decisions.

Please let me know if I may be of further assistance in this matter.

Sincerely,

DEAN BURCH, Chairman.

SAN FRANCISCO, CALIF.,

March 19, 1973.

Senator JOHN O. PASTORE,

Chairman, Subcommittee on Communications, Senate Committee on Commerce,  
U.S. Senate Office Building, Washington, D.C.

DEAR SENATOR PASTORE: I have always been impressed with your insightfulness in hearings on legislative proposals relating to broadcasting. This quality was never more needed than in the present hearings on the proposal to repeal the equal opportunities in political broadcasting doctrine as applied to Presidential campaigns.

Television is the essential political forum today. Without access to it no political candidate has a chance, with the possible exception of an incumbent President. Because the Presidency is our most powerful office, application of the equal opportunities doctrine to that office is more important than to any other.

The television networks and NAB cannot provide adequate, *equal* time for Presidential campaigns, whether free or purchased, because of the large number of candidates. However, if Congress should adopt a formula of *differential equality of access*, based upon support of a candidate or party as evidenced by the petitions or the votes received in the last election, it would be practical to provide access to all candidates. This can be accomplished in a manner which serves both the need of the people to have adequate exposure to the candidates of the two major parties and the need for occasional emergence of third and fourth parties. Such a differential equality of access plan was proposed by me in Volume 3, University of Cincinnati Law Review 447, 533-542 (1968). A copy of relevant pages of the article is enclosed.

If the equal opportunities doctrine were repealed, no doubt the networks and broadcasters would supply adequate time, free and purchased, to candidates for the two major parties in the general Presidential election. But how much time would be available for third and fourth parties in Presidential elections?

It is of the utmost importance that the political process by which we select our President provide reasonable opportunity for competition by a new party in times of stress. Unless the Presidential election process should provide this opportunity, portions of the electorate unfortunately might follow methods

outside our traditional ballot box. Such opportunity could be provided by a plan for differential equality of access to television similar to that proposed in the enclosed materials.

The danger of control of public opinion and political elections through control of broadcasting is as great today as it was in 1928 when Congress enacted the equal opportunities doctrine to safeguard the people from the danger of political dominance, via broadcasting, by either a small group or by Government. It is most important that this safeguard be maintained.

The Networks and National Association of Broadcasters, in past hearings, have favored the repeal of the equal opportunities and fairness doctrines in their entirety. Hence, excepting Presidential elections from the doctrine may be expected to invite renewed pressure from them to do away with the equal opportunities and fairness doctrines. The argument will be that if we do not need the equal opportunities doctrine in Presidential elections, our highest office, *a fortiori*, neither is it needed for lesser offices, nor is it necessary to require that both sides of controversial issues be broadcast.

In my opinion, a substantial constitutional issue would be raised by a regulatory framework which licenses and regulates broadcasters in the public interest but eschews regulation of the most important element of the public interest in broadcasting use of broadcasting for political campaigns—on an understanding that favorable access will be given to the two major parties without assurance of reasonable access by minor parties. The case can be made on equal protection and freedom of speech grounds. I have treated this problem, in the context of the recent federal legislation governing campaign funding and spending in 5 University of Michigan Journal of Law Reform 159, 179-185 (1972).

It is requested that this letter, together with pages 533-542 of the Cincinnati Law Review article, be included in your printed hearings. Also, if testimony by me on this matter would be helpful, I could come to Washington to testify after May 6.

Very sincerely yours,

Prof. ROSCOE L. BARROW.

Enclosure.

UNIVERSITY OF CINCINNATI LAW REVIEW—VOL. 37, SUMMER 1968, NO. 3

THE EQUAL OPPORTUNITIES AND FAIRNESS DOCTRINES IN BROADCASTING. PILLARS  
IN THE FORUM OF DEMOCRACY

(Roscoe L. Barrow\*)

#### A. THE EQUAL OPPORTUNITIES DOCTRINE

The analysis of the equal opportunities doctrine disclosed the following impediments to the practical functioning of the doctrine:

(a) The number of legally qualified candidates in some elections is so great that networks and stations cannot grant substantial equal time to all and, thus, the electorate is deprived of adequate exposure to the candidates and minor, as well as major, candidates may have difficulty in gaining access to broadcasting;

(b) licensees are not required to grant the use of broadcast facilities to any candidate and some stations will not grant free time or sell time to a political candidate because usually there is a loss of viewers for that program and succeeding programs;

(c) in primary elections, the doctrine only applies intra-party so candidates for nomination for the same office in other parties are not granted equal opportunities; and

(d) candidates do not have an adequate remedy for denial by a licensee of equal opportunities.

If the number of candidates for an office is large, the licensee can neither grant substantial, equal, free time to all nor sell substantial equal time to all without

\*Wald Professor of Law, University of Cincinnati. The author was Moderator of the panel sessions on the equal opportunities and fairness doctrines conducted by the Special Subcommittee on Investigations, House Committee on Interstate and Foreign Commerce, on March 5 and 6, 1968. Consultant, Office of Commissioners, FCC, 1961-63. Director, Network Study Staff, FCC, 1955-57. Research incident to this Article was supported in part by a grant by the Walter E. Meyer Research Institute of Law. Also, the author expresses appreciation to the House Special Subcommittee on Investigations, whose assignment of the author to moderate the hearing on the equal opportunities and fairness doctrines contributed essential background for the Article.

interference with broadcasting's advertising and entertainment functions. Hence, in campaigns involving numerous candidates for the same office, licensees are reluctant to permit any of the candidates to appear on a sustaining or commercial basis. Several conflicting needs are involved. The networks and licensees must serve the needs of advertisers and supply programming satisfying the needs of a pluralistic society of listeners. The electorate needs to see and hear the major and minor candidates and the opportunity to seek change in political policy through potential development of a competitive third party. The minor and major candidates need the opportunity to present their views and personalities to the electorate. The over-all public interest requires an accommodation of these conflicting needs. Such accommodation could be achieved through granting less time to minor candidates than to major candidates, by permitting the licensee to prescribe a panel type appearance for candidates where their number renders this the only practical format, by permitting comparable stations to enter into agreements for the allocation of the candidates among such stations on a nondiscriminatory basis, and by narrower interpretation by the Commission of an appearance which constitutes a "use" for political purposes.

The political process is so essential to self-government in a free society that licensees should not be permitted, as they presently are,<sup>1</sup> to avoid the equal opportunities doctrine by denying access by a candidate to broadcast facilities. Moreover, a part of the sustaining time, which it has traditionally been expected that licensees will allot in partial compensation for the free use of the publicly owned channel, should be assigned expressly to political campaigns. However, since the amount of free broadcast time necessary for a viable political process is substantial, and there are other societal interests to which sustaining time should be allocated, networks and licensees which grant free time to political candidates should be permitted to deduct from taxable income a portion, possibly one-half, of the revenue lost as a result of granting free time for political purposes.

In primary elections, the equal opportunities doctrine applies intra-party and independent candidates or candidates for nomination by other parties for election to the same office need not be granted equal opportunities. In a political unit where nomination is tantamount to election, the meaningful campaign is the primary and, since the general election may be of little importance, a minor party may be precluded from developing into a major party if its candidates are denied access during the primary campaign. Where such circumstances exist, the equal opportunities doctrine should be applied in primaries on an interparty basis. A practical numerical standard for invoking the inter-party application of the doctrine in primaries is the polling by one party of at least two-thirds of the popular vote for the office in the last general election. On the merits, a minor party in a political unit having two competitive major parties needs the protection of the inter-party application of the equal opportunities doctrine in primaries. However, the increased allocation of broadcast time, which inter-party application of the doctrine in all primaries would require, justifies an accommodation of the several interests involved so as to limit intra-party application to political units having only one major party.

Under the existing procedure, the equal opportunities doctrine is enforced by the Commission and the candidate who is denied equal opportunities does not have an action for damages.<sup>2</sup> Moreover, if attempted enforcement by the Commission does not reach judicial decision until the election has been held, the issue is moot. Denial of equal opportunities immediately prior to the election is most damaging to a candidate's chances of election and in such a case, it may be impossible for the Commission to secure judicial determination prior to the election. Accordingly, the disadvantaged candidate should be granted the remedy of damages in the event of a denial of equal opportunities to a candidate or a filer thereof. The damages should be limited to the sum which the candidate must pay to obtain broadcast time on a comparable network or station.<sup>3</sup> This sum should be recoverable if the disadvantaged candidate makes a good faith effort to obtain equal opportunities on comparable networks or stations even though his efforts prove unsuccessful.

<sup>1</sup> The public interest standard and fairness doctrine require the licensee to grant some access to political candidates. See text accompanying note 25 *supra*. However, these doctrines do not provide the degree of access by political candidates which is necessary for a viable political process.

<sup>2</sup> See text accompanying note 48 *supra*.

<sup>3</sup> This recommendation is made by Derby. See Derby, *Analysis and Proposal*, 3 *East. J. Legis.* 237, 315 (1966).

Presidential campaigns are unique in that the political unit is national and appearances of the candidates involve nation-wide networks. It is also the most important public office and the balance in accommodating the conflicting interests of the electorate, major and minor candidates, and advertising differs from the justifiable balance in state and local elections, if not in congressional elections. Accordingly, separate statutory frameworks for presidential and other elections are desirable.

The foregoing recommendations, as applied to presidential elections, may be effectuated by addition of the following paragraph to section 315:

( ). (I) In political campaigns for nomination or election to the offices of President and Vice-President of the United States, a network or a licensee which grants time to any such candidate shall provide equal opportunities for use of the broadcast facilities to all other candidates for nomination or election to the same office, except that the amount of time granted to candidates for nomination or election to the same office may be varied as provided in this paragraph.

(II) For the purposes of this paragraph, a "network" means any organization which supplies program service on a live, interconnected basis to at least one-half of the 50 most populous cities in the United States.

(III) For purposes of this paragraph, candidates for the offices of President and Vice-President of the United States are classified as "major political candidates," "minor political candidates," and "evolving political candidates." A major political candidate is the candidate for nomination or the nominee of a party which in the last presidential election polled at least 3 percent of the popular vote; or, in the case of a candidate who is an independent or is the candidate for nomination or the nominee of a new party, is supported by petitions signed by qualified electors numbering at least 1.5 percent of the popular vote in the last presidential election. A minor political candidate is a qualified candidate for nomination or a nominee who has qualified in at least three states and who is either a candidate for nomination or election of a party which in the last presidential election received at least 1 percent of the popular vote; or, if an independent candidate or the candidate for nomination or the nominee of a new party, is supported by petitions signed by qualified electors numbering at least one-half of 1 percent of the popular vote in the last presidential election. An evolving political candidate is one who does not qualify as a major or minor political candidate.

(IV) In each of the 8 weeks preceding the presidential election, sustaining prime time shall be granted by each network and station to candidates for President of the United States, as follows: to each major political candidate 1 hour, to each minor political candidate one-half hour, and to each evolving political candidate none. The candidate for President may allot to the candidate for Vice-President of the same party, such portions of his free time as he may elect.

(V) Networks and stations shall be granted a deduction from taxable income of one-half the revenue lost as a result of granting the free broadcast time prescribed in subparagraph (IV).

(VI) A network or licensee which grants sustaining or commercial time, in addition to the sustaining time prescribed in subparagraph (IV), to candidates for nomination or election to the offices of President or Vice-President of the United States may vary the amount of time granted to opposing candidates for the same office as follows: (i) if the time is granted to a major political candidate, it shall grant equal time to other major political candidates and one-half time to minor political candidates but shall not be required to grant any time to evolving political candidates; (ii) if the time is granted to a minor political candidate, it shall grant equal time to other minor political candidates and one-half time to major political candidates but shall not be required to grant time to evolving political candidates; and (iii) if the time is granted to an evolving political candidate, it shall not be required to grant any time to minor or major political candidates.

(VII) If a network or licensee denies equal opportunities, within the time variables prescribed in subparagraph (IV) and (VI), to a candidate entitled thereto, such candidate shall be granted a cause of action in the appropriate district court of the United States for damages. The measure of damages shall be the amount which the aggrieved candidate reasonably paid for use of substitute network or station facilities, or if a good faith effort to obtain such use failed, the sum which would have reasonably been paid for such use if comparable facilities had been available.



(VIII) The Federal Communications Commission shall make rules and regulations to carry out the provisions of this paragraph.

The proposal would overcome the principal argument for repeal or suspension of the equal opportunities doctrine as to presidential elections, *i.e.*, that the large number of legally qualified candidates makes it impossible for licensees to grant substantial, equal time to all. The percentile of popular vote standards for defining "major," "minor," and "evolving" political candidates are geared to the history of presidential third party campaigns. Applying the standard of 3 percent of the popular vote to qualify as a major party and 1 percent to qualify as a minor party, there were two major parties, in all presidential elections from 1944 through 1964, and the only minor parties during these six presidential elections were the American Labor Party in 1944 and the States Rights Democratic Party and the Progressive Party in 1948.<sup>4</sup> However, in the 1968 presidential campaign there would be three major candidates, George Wallace having obtained signatures of qualified electors on petitions which number at least 1.5 percent of the popular vote in the 1964 presidential election. There can be little question that, under any reasonable standard of popular support, Wallace is a major political candidate.

Minor parties may object to the percentile standards as being too high and to being granted only half time. However, if in the preceding presidential election, a party did not poll as much as 3 percent of the popular vote, it cannot in the pending election elect its presidential candidate but possible can poll 3 percent of the popular vote, thereby qualifying for equal time in the ensuing presidential election.<sup>5</sup> Also, since it is impractical to make substantial, equal time available to a large number of presidential candidates, it is justifiable to allot less time to parties which were unable to poll 3 percent of the popular vote in the preceding election. The impracticality of the doctrine, as presently applied, works against the interest of minor parties because sustaining time is not available to them. The proposal would provide half time to such parties, including sustaining time, and, thus, would improve their opportunity for development into major parties.

The evolving party, which under the proposal would not be entitled to sustaining or commercial time, may complain that the proposal denies them any opportunity to develop. However, under the current "equal time for all" provision, the numerous parties which poll an insignificant percentage of the popular vote prevent access to evolving parties as well as to minor and major candidates. Under the proposal, a network or station could grant sustaining or commercial time to an evolving party without being obligated to provide time to any other candidate. Accordingly, networks or stations would be more inclined to grant time to an evolving candidate. Moreover, the evolving party, by obtaining support of one-half of 1 percent of the popular vote on petitions can qualify a minor candidate who can acquire a right to half time. In practice, the evolving party would be aided, rather than handicapped, in developing into a minor or even a major party.

Networks and stations may object to the provision for compulsory sustaining time.<sup>6</sup> This is eased, however, by permitting them to deduct from taxable income one-half the loss of revenue resulting from a grant of the compulsory sustaining time. Regarding presidential elections, networks and licensees recognize a heavy obligation to provide a forum via broadcasting for political campaigns and the provision should be acceptable to them. However, if broadcasting's lobby proves too powerful and compulsory sustaining time for presidential campaigns should not be adopted, this would not impair the effectiveness of the other portions of the proposal. A probable ground for objection by networks to the proposal is

<sup>4</sup> The data for 1944 through 1956 are assembled in *Hearings on S. 3171, Before the Communications Subcomm. of the Comm. on Interstate and Foreign Commerce, 86th Cong., 2d Sess. 15 (1960)*. The data for 1960 and 1964 appear in R. SCAMMON, *AMERICA AT THE POLLS* 22, 24 (1965).

<sup>5</sup> *Hearings on S. 3171, supra* note 297, at 7 (Adlai Stevenson).

<sup>6</sup> S. 3171, providing for compulsory sustaining time, did not become law. Network spokesmen contended that this was a taking of property without due process of law. *Id.* at 2. Licensees of stations do not have a property in the channels. See note 12, *supra*. The close relationship of networks and their affiliates, the licensees, renders it reasonable and constitutional to regulate networks directly and to provide a balanced program service in the public interest, including equal opportunities for political candidates and reasonable sustaining time for such candidates. See COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, REPORT ON TELEVISION NETWORK PROGRAM PRIORITIES, 88th Cong., 1st Sess. 149-50 (1963); NETWORK BROADCASTING, *supra* note 181; Barrow, *supra* note 249, at 656-58.

that it would constitute direct regulation of networks rather than the existing approach of indirect regulation through their ownership of licensed broadcasting stations. In view of the networks' concentration of control in the broadcasting industry, networks should be regulated directly.<sup>1</sup> However, since direct regulation is a concern to the networks, the purpose of the proposed amendment, insofar as it applies to networks, could be achieved by omitting the reference to "network" and substituting therefor the following:

No license shall be granted to a broadcasting station which maintains affiliation with a network, as defined in this paragraph, after having received reasonable notice that such network has willfully or repeatedly refused to include in its program service sustaining time for presidential political campaigns, as prescribed in subparagraph (IV) or has willfully or repeatedly refused to include in its program service equal opportunities for presidential candidates within the time variables prescribed in subparagraph (VI).

Since the network service is used only for national primary and general elections, the provisions regarding networks should not be applicable to offices other than President and Vice-President.

It is important that a reasonable amount of compulsory, sustaining, prime time be made available to candidates for nomination or election to the offices of senator and representative of the United States. Television in particular and to a lesser degree radio have great impact in elections. Whether a candidate has favorable broadcast time may determine whether he wins or loses the election. This places a member of Congress in the position that, when proposed legislation to encourage broadcasting's service to the public interest is being considered, the broadcasting industry may be able to exert undue pressure in the interest of the commercial function of broadcasting.<sup>2</sup> Accordingly, section 315 should be amended to include the granting of a reasonable amount of compulsory, sustaining, prime time to candidates for nomination or election to Congress. As in the case of the presidential election, the amount of sustaining or commercial time available might well be varied, equal time being available to major candidates, half time to minor candidates, and no requirement of time for candidates in name only.

The importance of state, county and local offices to self-government suggests that the interest of the free society would be well served by providing compulsory, sustaining, prime time for candidates for these offices as well. However, the large number of offices and candidates involved, the multiplicity of governmental subdivisions within the area served by the station, and the lack of available data for formulating a workable plan, preclude recommendation of a concrete plan for granting compulsory, sustaining time to candidates for these offices. It would serve the public interest if an appropriate congressional committee or the Commission would collect data for the purpose of determining whether such a plan is feasible as to state, county and local offices.

With the exception of the provisions relating to networks and compulsory sustaining time, the above proposed statute governing presidential elections is adaptable to state, county and local elections. The classification of candidates as "major," "minor" and "evolving" should be used. However, the percentile standards used in the presidential election statute are not practical for normal state, county and local elections. As to such elections, the definitions should be as follows:

A "major political candidate" is a candidate for nomination or election of a party which in the preceding general election polled at least 25 percent of the popular vote cast for the office; or, in the case of an independent candidate or a candidate for nomination or election of a new party, who has support of qualified electors by petition numbering at least 10 percent of the popular vote cast for the office in the preceding general election.

<sup>1</sup> For an analysis of the merit of direct regulation of networks, see NETWORK BROADCASTING, *supra* note 181 at 608-32.

<sup>2</sup> In this connection, one may well note the prophetic statement of Congressman Johnson in 1926: "For publicity is the most powerful weapon that can be wielded in a Republic, and when such a weapon is placed in the hands of one, or a single selfish group is permitted to either tacitly or otherwise acquire ownership and dominate these broadcast stations throughout the country, then woe be to those who dare to differ with them. It will be impossible to compete with them in reaching the ears of the American people." 67 CONG. REC. 5558 (1926).

A "minor political candidate" is a candidate for nomination or election of a party which in the preceding general election polled 10 percent of the popular vote cast for the office; or, in the case of an independent candidate or the candidate for nomination or election of a new party, who has support of qualified electors by petition numbering at least 5 percent of the popular vote cast in the preceding general election.

An "evolving political candidate" is a candidate who does not qualify as a minor or major political candidate.

The granting of voluntary sustaining time or commercial time to a candidate should be treated the same as provided in subparagraph (VI) of the proposed presidential election statute.

Particularly at the local level, special circumstances, such as an unusually large number of political units within reach of the broadcast signal, an unusually large number of parties, candidates or positions, creation of new positions, and altering political boundaries, may render the percentile standards for "major," "minor" and "evolving" parties inequitable and create other problems requiring case-by-case decision. To assist the Commission in applying the proposed statute, local citizens' committees should be established. The committees should be appointed by the Commission, or other appropriate authority, from lists of citizens supplied by all political parties in the territory served by the broadcast signal. The number of members should be commensurate with the work load, and a panel of three members, not more than two of whom could be members of the same party, should hear each case. The committees would have authority to vary the percentile standards in appropriate cases, to allocate candidates among comparable stations where no other method of accommodating the candidates is feasible, and to authorize stations to use the panel format of appearance, where circumstances render such format the only feasible one. Appeals from decisions of the committees would be to the Commission. However, to avoid an intolerable workload on the Commission, the appeal should be heard by an intermediate body within the Commission, and the Commission en banc should have discretion to limit cases before it to appeals involving substantial questions of policy.

In primary elections, the equal opportunities doctrine should be applied inter-party rather than intra-party as at present, if in the preceding general election at least two-thirds of the popular vote for the political office was cast for the candidate for one party. Under such circumstances, nomination is tantamount to election, and the deemphasis of the general election limits the opportunity of another party to establish a competitive position. The public interest in a viable, two party system justifies the inter-party application of the equal opportunities doctrine in primaries if there is only one major party.

In state, county and local elections, an action for damages, identical with that recommended for presidential elections, should be provided the candidate who is denied opportunity to use broadcasting facilities provided by the statute.

The percentile standards and flexibility provided by the proposed statute should render the equal opportunities doctrine more practical than at present and, thus, less inhibiting upon allocation of broadcast time to political candidates.











# Appendix A

## HEARINGS

NOVEMBER 1966

### SUBCOMMITTEE ON COMMUNICATIONS

OF THE

### COMMITTEE ON COMMERCE

### UNITED STATES SENATE

NINETY-THIRD CONGRESS

FIRST SESSION

OR

S. 372

TO AMEND THE COMMUNICATIONS ACT OF 1934 TO IMPROVE  
REGULATORY POLICY OF THE FEDERAL COMMUNICATIONS COMMISSION  
AND WITH RESPECT TO CONFIDENTIALITY AND TO  
PROTECT THE RIGHTS OF CANDIDATES AND TO AMEND THE CAMPAIGN  
FINANCING ACT OF 1947 TO PROVIDE A FURTHER  
LIMITATION ON EXPENDITURES IN ELECTION CAMPAIGNS  
FOR FEDERAL ELECTIVE OFFICES

MARCH 7, 1974

Serial No. 33-1

Printed for the use of the Committee on Commerce







**FEDERAL ELECTION CAMPAIGN ACT OF 1973**  
**Appendix A**

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**HEARINGS**  
**BEFORE THE**  
**SUBCOMMITTEE ON COMMUNICATIONS**  
**OF THE**  
**COMMITTEE ON COMMERCE**  
**UNITED STATES SENATE**  
**NINETY-THIRD CONGRESS**

**FIRST SESSION**

**ON**

**S. 372**

**TO AMEND THE COMMUNICATIONS ACT OF 1934 TO RELIEVE  
BROADCASTERS OF THE EQUAL TIME REQUIREMENT OF  
SECTION 315 WITH RESPECT TO PRESIDENTIAL AND VICE  
PRESIDENTIAL CANDIDATES AND TO AMEND THE CAMPAIGN  
COMMUNICATIONS REFORM ACT TO PROVIDE A FURTHER  
LIMITATION ON EXPENDITURES IN ELECTION CAMPAIGNS  
FOR FEDERAL ELECTIVE OFFICE**

**MARCH 7, 8, 9, AND 13, 1973**

**Serial No. 93-4**

**Printed for the use of the Committee on Commerce**



**U.S. GOVERNMENT PRINTING OFFICE**  
**WASHINGTON : 1973**

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FEDERAL COMMUNICATIONS COMMISSION

*Report on Political Broadcasting and Cablecasting, Primary and General  
Election Campaigns of 1972*

MARCH 1973

*Political broadcasting and cablecasting—Summary comparison: 1972  
versus 1968*

Candidates for elective office in 1972 spent a total of \$59.6 million on the Nation's radio and television networks and stations and on cable television systems. This represents an increase of only 1 percent (\$700,000) over 1968, the previous comparable election year.

The Presidential-Vice Presidential campaigns accounted for \$14.3 million of the 1972 total, a decline of 50 percent from the \$28.5 million spent in 1968. The 1972 Democratic Presidential candidates spent \$9.6 million (\$3.4 million in the primaries; \$6.2 in the general election) compared to \$10.9 million in 1968. The Republicans spent \$4.4 million in 1972 (less than \$100,000 in the primaries; \$4.3 million in the general) versus \$15.6 million in 1968. Presidential candidates for other parties spent a total of \$305,000 in 1972 compared to \$2 million in 1968.

Candidates in U.S. senatorial races spent a total of \$6.4 million in 1972, a 38 percent decline from the \$10.4 million spent in 1968. In 1972, the Democratic candidates for the Senate spent \$3.3 million (\$1.4 million in the primaries; \$1.9 in the general election) versus \$6.1 million in 1968. The Republicans spent \$3 million in 1972 (\$500,000 in the primaries; \$2.5 million in the general election), and \$4.2 million in 1968. Other party candidates spent \$120,000 in 1972 and \$84,000 in 1968.

Congressional candidates spent \$7.4 million in 1972. Of the \$7.4 million, the Democrats spent \$4.3 million (\$2 million in primaries; \$2.3 million in the general election) and the Republicans \$3.1 million (\$670,000 in the primaries; \$2.4 million in the general election). (Comparable data is not available for 1968.)

Gubernatorial candidates (including candidates for Lieutenant Governor) spent \$9.7 million in 1972. In 1968 the figure was \$6.2 million. The Democrats accounted for \$5.9 million in 1972 (\$3.4 million in the primaries; \$2.5 million in the general election) and \$3 million in 1968. In 1972 the Republican candidates spent \$3.7 million (\$700,000 in the primaries; \$3 million in the general election); in 1968, they spent \$3.2 million. Gubernatorial candidates for other parties spent less than \$100,000 in both election years.

Broadcast spending by candidates for all other State and local offices totaled \$21.7 million in 1972, of which \$11.3 million was spent by Democrats, \$6.5 million by Republicans and \$3.9 million by other party or nonpartisan candidates. (Comparable data is not available for 1968.)

Spending on television represented 62.4 percent of the \$59.6 million total in 1972 (compared to 64.5 percent in 1968), while radio accounted for 37.5 percent (35.5 percent in 1968) and cable television for 0.1 percent. (Cable television spending data is not available for 1968).

In the 1972 election campaigns 88 percent of the total spent was for spot announcements; 12 percent for longer programs. In 1968 the distribution was 91 percent for spot announcements and 9 percent for programs.

*Explanatory notes for the tables that follow*

(1) This report includes amounts spent on broadcasting and cablecasting by candidates or supporters and free time used by candidates or supporters, between January 1, 1972, and November 7, 1972.

(2) The data in this report is based on questionnaires sent to all broadcast licensees and cable television systems. Every reasonable attempt has been made, within the time constraints involved, to eliminate errors made by respondents in the designation of candidates for major offices (President, U.S. Senator, U.S. Representative, Governor and Lieutenant Governor). However, some candidates whose proper designation was not readily ascertainable (from lists furnished by the Secretary of the Senate, the Clerk of the House of Representatives, the Office of Federal Elections (GAO) or other published sources) may still be classified erroneously.

(3) For purposes of this report, political broadcasting (free or purchased) occurring before the final nomination of candidates to be placed on the general election ballot is considered as part of the primary election campaigns. Political broadcasting occurring after the final nominations of candidates is considered part of the general election campaigns.

(4) Data shown under the free time category includes public broadcasting networks and stations.

(5) Network and nonnetwork free time are not added in these tables because network free time represents time on an unknown number of individual stations.

(6) Expenditure data shown here are before deduction of commissions to advertising agencies or station sales representatives. In the 1970 Survey of Political Broadcasting, the data were reported after deduction of commissions, but surveys for 1968 and earlier years reported data before the deduction of commissions.

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TABLE 1.—U.S. PRESIDENT AND VICE PRESIDENT—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>NETWORK</b>									
Democrat: McGovern.....	1,720	609		\$1,207,911	\$61,964		\$2,422,574	\$81,794	
Republican: Nixon.....	1,314	436		1,258,348	78,718		2,285,317	362,719	
Other parties:									
Fisher.....	30	12			20,500			25,257	
Hall.....	60	13			1,881		19,911	5,452	
Hospers.....									
Jennings.....	22	12							
Munn.....									
Schultz.....	61	52					112,239		
Spock.....	50	14							
Total.....	224	104			22,381		132,150	30,709	
Network total.....	3,258	1,149		2,466,259	163,063		4,940,041	475,162	
<b>NONNETWORK</b>									
Democrat:									
Eagleton.....		27				\$494	2,423,824	1,281,458	\$1,198
McGovern.....	9,571	24,042	931	1,724,252	1,245,200				
Shriver.....	47		45						
Wallace.....		69			561		350	702	
Total.....	9,618	24,138	1,005	1,724,252	1,245,761	494	2,424,174	1,282,160	1,198
Republican:									
Agnew.....	47	70			208			428	
Nixon.....	8,119	18,223	752	1,104,050	361,876	224	1,285,691	363,838	476
Total.....	8,166	18,293	752	1,104,050	362,084	224	1,285,691	364,266	476
Other parties:									
Anderson.....	157	274	30	34	100		34	100	
Boren.....		42							
Boys.....					120			120	
DuMont.....		30							
Fisher.....	657	1,300			788		788	942	
Gray.....				41			41		
Gregory.....		25							
Gunderson.....	90	238							
Hall.....	660	2,253	30	8,453	11,132		14,156	12,412	
Hobson.....	95								
Hoppers.....	240	1,822	58		5			105	
Total.....	9,942	24,138	58	8,483	11,137		14,156	12,412	

15	253	112	112	112	112
3,882	7,791	130	52,791	45,889	20
457	1,634	30	60,315	46,351	70
106	269	269	269	269	269
6,478	16,660	278	61,319	58,432	20
24,282	59,121	2,006	2,889,661	1,666,277	738
NETWORK AND NONNETWORK					
6,478	16,660	278	61,319	58,432	20
24,282	59,121	2,006	2,889,661	1,666,277	738
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NETWORK AND NONNETWORK					
6,478	16,660	278	61,319	58,432	20
24,282	59,121	2,006	2,889,661	1,666,277	738

# NETWORK AND NONNETWORK

## Democrat:

Exon	2,832,203	1,307,164	494	4,846,398	1,363,192	1,198	6,210,788
McGovern							
Shriver							
Wallace							
Total	2,832,203	1,307,164	494	4,846,398	1,363,192	1,198	6,210,788

## Republican:

Agnew	2,362,398	440,594	224	3,571,088	726,557	476	4,298,041
Nixon							
Total	2,362,398	440,594	224	3,571,088	726,557	476	4,298,041

## Other parties:

Anderson	34	100		34	100		134
Boren							
Boyls		120			120		120
Du Mont							
Fisher	41	21,298		41	26,199		26,199
Gray							
Gregory							
Guaderson							
Hall	8,453	13,013		34,067	17,864		51,931
Holmes							
Hoppers		105			105		105
Jennings							
Munn							
Nathan							
Nolan		112			112		112
Pulley							
Schmitz	52,791	46,880	20	172,554	46,351	70	220,975
Spock							
Templeton							
Tyner		260			260		260
Total	61,319	80,813	20	206,726	93,262	70	300,058

## Network and nonnetwork total

5,355,820	1,829,340	738	8,624,482	2,184,141	1,744	10,810,367
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Humphrey	2,526	2,862	613	522,247	172,204	316,822	171,715	48,122
Jackson	2,507	1,277	90	184,527	50,520	240,149	50,520	250,679
Kennedy								
Lincoln	446	329	95	163,025	31,035	194,131	31,150	225,285
McCarthy	848	7,024		24,390	17,264	41,654	17,264	58,918
McGovern	2,902	7,024	771	585,821	413,068	790,027	425,227	1,215,244
Mills	183	170	297	51,557	33,613	85,093	43,021	138,114
Mink		175			54		54	54
Muskie	1,360	1,949	10	200,857	204,933	304,546	205,150	510,698
Peabody	79	172	30		1,768		1,768	1,768
Sanford	98	751		34,822	41,128	50,397	44,359	94,756
Sherman					6		6	6
Stanley						180		180
Troy		17						
Wallace	1,503	1,833	46	293,796	121,998	395,526	123,645	432,246
Yorty	563	652	20	104	1,808	1,187	1,808	3,045
Total	14,307	21,970	2,340	1,779,019	1,117,921	2,243,075	1,141,591	3,385,596
Republican:								
Agnew								
Ashbrook	1,067	1,740	15	2,556	120		147	147
McCloskey	567	1,191	155	9,348	8,962	2,556	12,704	15,260
Nixon	3,165	3,306	90	19,198	12,681	10,678	8,822	19,640
Paulsen	187	211				19,198	12,681	31,879
Total	4,986	6,448	260	31,102	34,169	32,432	34,404	66,925
Other parties:								
Boren								
Braato	30	150					54	54
DuMont	20	40	29					
Fisher			29					
Gunderson								
Hall	52	570			20		20	20
Hospers		85			162		161	181
Jennness	39	165	29					
Joy	57	730						
Kay								
Martin					65		157	197
Pulley		65	58					
Rudnicki	13							
Schmitz	325	90		2,160	587	2,160	587	2,757
Spock	215	744						
Tyner	60	90						
Vey		59			1,454		1,459	1,489
Total	855	2,756	145	2,160	2,288	2,160	2,538	4,698
Nonnetwork total	20,148	31,176	2,745	1,812,281	1,154,388	2,278,267	1,178,623	3,457,190

TABLE 2. U.S. PRESIDENT AND VICE PRESIDENT 1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
NETWORK AND NONNETWORK										
Democrat.										
Abrams.				\$1,740			\$2,070			\$2,070
Anti-Wallace				280			8,326			8,326
Arnold										
Bayh				283	\$5,917		283	\$7,033		7,314
Chisholm					74		400	74		476
Coll										
Gravel										
Hamilton										
Harriman										
Harris										
Hartke										
Hervis										
Hughes					12,822		600	12,822		13,422
Jackson										
Kennedy				270,862	172,944		343,067	174,275		517,342
Lindsay				188,527	50,520	\$10	240,149	50,520	\$10	290,679
McCarthy				180			169,131	33,450		202,586
McGovern				163,025	33,035	5	36,726	17,291	5	54,017
Mills				24,360	17,264		750,027	425,227	210	1,175,464
Mink				586,821	413,089	210	56,093	43,021		99,114
Muskie				51,557	39,613			54		54
Peabody				308,922	207,783		332,573	209,050		541,623
Sanford					1,766			1,766		1,766
Shaw				34,802	41,128		50,397	44,399		94,796
Sherman					6			6		6
							180			180

Rep	203,796	121,968	306,536	123,646	75	432,336	
Dem		1,868	1,167	1,858		3,025	
Ver							
Total	1,835,259	1,120,821	225	2,299,915	1,144,401	300	3,444,796
Republican:							
Agnew		120			147		147
Ashbrook	2,556	12,408		2,556	12,704		15,260
McChesley		8,962		10,678	8,962		19,640
Nixon	9,348						
Paulsen	19,198	12,681		19,198	12,681		31,879
Total	31,102	34,169		32,432	34,494		66,926
Other parties:							
Boren					54		54
Bratic							
DuMont							
Fisher							
Gundersen		20			20		20
Hall		162			181		181
Hoopers							
Jenness							
Kay							
Martin		65			197		197
Puller							
Rudnick							
Schmitt		587			587		2,757
Spock	2,160			2,160			
Tyner							
Ver		1,454			1,489		1,489
Total	2,160	2,298		2,160	2,538		4,698
Network and nonnetwork total	1,868,521	1,157,288	225	2,334,507	1,181,523	300	3,516,330

TABLE 3.—J. S. S. HAYES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Total
<b>ALASKA</b>									
Nonnetwork	104	394	.....	\$448	\$1 143	\$62	\$816	\$1 143	\$2 149
Democrat Gress	86	324	.....	.....	10 192	324	10 910	10 192	21 426
Republican Stevens	.....	.....	25	.....	.....	.....	.....	.....	.....
Nonnetwork total	199	718	25	11 278	11 335	386	11 826	11 335	23 575
<b>ALABAMA</b>									
Network	.....	.....	.....	.....	.....	.....	2,140	.....	2,140
Other parties Le Flore	.....	.....	.....	.....	.....	.....	2,140	.....	2,140
Network total	.....	.....	.....	.....	.....	.....	.....	.....	.....
Nonnetwork	458	572	.....	87,186	32 303	.....	91 877	32 398	124 275
Democrat Sparkman	.....	.....	.....	.....	.....	.....	.....	.....	.....
Republican Blount	458	763	45	80,137	30 466	.....	94,488	31 351	125 839
Other parties	453	65	.....	.....	833	.....	.....	833	833
Le Flore	416	105	.....	.....	35	.....	.....	35	35
Stone	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total	869	170	.....	.....	868	.....	.....	868	868
Nonnetwork total	1,785	1 505	45	167,323	63 637	.....	186 365	64 617	250 982
<b>Network and nonnetwork</b>									
Democrat Sparkman	.....	.....	.....	87,186	32 303	.....	91 877	32 398	124 275
Republican Blount	.....	.....	.....	80,137	30 466	.....	94,488	31 351	125 839
Other parties	.....	.....	.....	.....	833	.....	2,140	833	2,973
Le Flore	.....	.....	.....	.....	35	.....	.....	35	35
Stone	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total	.....	.....	.....	.....	868	.....	2 140	868	3 008
Network and nonnetwork total	.....	.....	.....	167,323	63 637	.....	188 505	64 617	253 122

Republican: Bushnet	54	104	20,786	87	20,786	87	20,786
Nonnetwork total	54	104	20,786	87	20,786	87	20,786
COLORADO							
Nonnetwork:	92	325	12,243	15,305	24,598	15,305	38,903
Democrat: Haskell							
Republican: Allott	54	249	25,172	14,209	29,016	14,209	43,225
Other parties:							
Other:	31	18		2		12	12
Salazar	43	10					
Total	74	28		2		12	12
Nonnetwork total	220	602	37,415	29,516	53,614	29,526	83,140
DELAWARE							
Nonnetwork:	68	435	2,542	14,170	4,442	14,185	18,627
Democrat: Biden							
Republican: Boggs	29	203	20,712	7,583	20,712	7,424	28,136
Other parties: Hefja	36	165		36		96	96
Nonnetwork total	125	1,031	23,254	21,859	25,154	22,105	47,259
GEORGIA							
Nonnetwork:	246	1,595	45,608	31,718	54,033	32,281	86,314
Democrat: Nunn							
Republican: Thompson	120	1,377	38,038	17,349	38,038	17,571	55,609
Other parties: Conner							
Nonnetwork total	672	3,353	84,647	49,067	93,071	49,852	142,923
IOWA							
Network:							
Democrat: Clark					1,427		1,427
Network total					1,427		1,427
Nonnetwork:	170	540	30	22,950	42,261	22,989	65,239
Democrat: Clark							
Republican: Miller	196	477	41,202	15,330	56,466	15,330	71,796
Other parties:							
Benton	113	45					
Recap		141					
Total	113	186					
Nonnetwork total	479	1,203	92,424	42,280	97,727	42,299	140,026



TABLE 3.—U.S. SENATOR—1972 GENERAL ELECTION POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
IOWA—Continued										
Network and nonnetwork—										
Democrat: Clark				\$41,202	\$22,950		\$43,688	\$22,969		\$66,657
Republican: Miller				51,222	19,330		55,466	19,330		74,796
Other parties:										
Beaton										
Recap										
Network and nonnetwork total				92,424	42,280		99,154	42,299		141,453
IDAHO										
Nonnetwork										
Democrat: Davis	434	607		14,825	7,536		15,171	7,536		22,707
Republican: McClure	434	530		15,361	6,020		15,571	6,020		21,591
Other parties: Stoddard	80	262			5			5		5
Nonnetwork total	948	1,399		30,186	13,561		30,742	13,561		44,303
ILLINOIS										
Network										
Republican: Percy	15									
Network total	15									
Nonnetwork										
Democrat:										
Purnakis	514	1,569		51,800	41,398		51,825	49,703		101,528
Williams	18	62		470			470			470
Total	532	1,631		52,270	41,398		52,295	49,703		101,998
Republican: Percy										
Other parties:										
Bechetti	452	904		234,365	45,682		239,023	45,748		284,771
Duffy	55	35								
Gross	18									
Helsted	25									
Helsted	80	62								
Total	179	285								
Nonnetwork total	1,162	2,070		286,635	87,080		291,318	95,451		386,769



TABLE 3.—U.S. SENATOR—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
LOUISIANA										
Nonnetwork										
Democrat Johnson	59	125	285	569,726	\$11,916		\$74,849	\$12,015		\$86,864
Republican Toledano	95	167	15	20,632	3,193		21,372	3,218		24,590
Other parties										
Lyons	50	80		320	236		320	236		556
McKeithen	38	49		63,022	4,103		98,852	4,298		103,150
Total	88	129		65,342	4,338		99,172	4,534		103,706
Nonnetwork total	242	421	300	155,900	19,448		195,393	19,767		215,160
MASSACHUSETTS										
Nonnetwork										
Democrat Droney	32	176		15,075	6,708		15,075	6,708		21,783
Republican Brooke	29	207		5,562	23,566		9,642	23,566		33,208
Other parties:										
Boinen	4									
Gurewitz	26	66			475			475		475
Wylie										
Total	30	66			475			475		475
Nonnetwork total	91	449		20,637	30,749		24,717	30,749		55,466
MAINE										
Nonnetwork										
Democrat Hathaway	500	702	14	26,429	8,299		90,703	8,299		99,002
Republican Smith	280	90						15		15
Nonnetwork total	780	792	14	26,429	8,299		90,703	8,314		99,017
MICHIGAN										
Nonnetwork										
Democrat Kelley	108	320		153,999	15,992		154,079	16,585		170,664
Republican Griffin	68	499	75	126,842	59,270		131,816	59,270		191,086
Other parties:										
Dennis	21	50								
Dillinger	24	29								
Helpert	46	47	90		202			220		220
Norquist	21	5								
Sim	21	34								

Total	125	165	90	220	220	220
Nonnetwork total	306	984	165	200 841	75,482	361,970
MINNESOTA						
Nonnetwork	137	360	15	57,487	31,402	100,829
Democrat Mondak	149	535	15	56,498	63,137	119,990
Republican Hansen						
Other parties						
Dick		66				116
Hillery		60				
Total		126				116
Nonnetwork total	286	1,021	30	113,985	94,539	220,935
MISSISSIPPI						
Nonnetwork						
Democrat Eastland				36,418	24,081	66,104
Republican Carmichael	43	175		12,211	6,599	7,848
Other parties Walker	15	135		345	545	805
Nonnetwork total	58	325		48,679	31,225	94,090
MONTANA						
Network						
Democrat Metcalf	1				93	93
Network total	1				93	93
Nonnetwork						
Democrat Metcalf	70	116	19	20,287	8,444	28,731
Republican Hibbard	70	146	15	12,197	6,770	22,200
Nonnetwork total	140	262	34	32,484	15,214	50,931
Network and nonnetwork						
Democrat Metcalf				20,287	8,444	28,731
Republican Hibbard				12,197	6,770	22,200
Nonnetwork total				32,484	15,214	50,931
NORTH CAROLINA						
Nonnetwork						
Democrat Gallianakis	527	437	30	53,766	18,380	72,191
Republican Helms	168	1,073		129,053	25,442	156,672
Nonnetwork total	375	1,550	30	182,819	43,822	228,863
NEBRASKA						
Nonnetwork						
Democrat Carpenter	283	60		21	16,092	16,121
Republican Curtis	283	144		12,330	14,474	34,586
Nonnetwork total	566	204		12,330	14,495	50,707



Nonnetwork:	120	1,290	50	40,339	8,025	45,414	12,285	57,699
Democrat: Edmondson.	120	1,532	3	70,462	20,108	71,566	20,285	91,851
Republican: Bartlett.								
Other parties:								
Phillips.	9	780						
Roach.	21	30						
Trent.	21	701				198		198
Total.	51	1,511				198		198
Nonnetwork total.	281	4,792	33	110,941	28,133	118,646	32,550	149,196
Network and nonnetwork:								
Democrat: Edmondson.								
Republican: Bartlett.								
Other parties:								
Phillips.				40,339	9,741	45,414	14,061	59,415
Roach.				70,502	20,108	71,036	20,285	91,301
Trent.								
Total.						198		198
Network and nonnetwork total.				110,941	29,849	118,646	34,266	150,912
OREGON								
Nonnetwork:	156	933	84	8,777	12,329	8,777	13,144	21,921
Democrat: Morse.	151	400	28	28,984	17	28,984	17	29,011
Republican: Hatfield.								
Other parties:								
Phillips.								
Roach.								
Trent.								
Total.	307	1,333	112	37,771	12,346	37,771	13,161	50,932
Nonnetwork total.								
RHODE ISLAND								
Network:	5							
Democrat: Peil.	5							
Republican: Chafee.								
Network total.	10							
Nonnetwork:	115	329		21,854	10,237	29,269	10,381	39,650
Democrat: Peil.	48	267		30,005	2,769	46,257	2,769	49,026
Republican: Chafee.								
Other parties:								
De Temple.	45							
Quattrochi.	115	78		3,183	178	7,321	178	7,497
Total.	160	78		3,183	178	7,321	178	7,497
Nonnetwork total.	323	674		63,052	13,182	82,847	13,326	96,173

TABLE 3.—U.S. SENATOR 1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
Network and nonnetwork:									
Democrat, Pell				\$21,854	\$18,237		\$29,269	\$10,381	
Republican, Chafee				39,005	2,769		46,257	2,769	
Other parties									
De Temple									
Quattrone				3,193	176		7,321	176	
Total				3,193	176		7,321	176	
Network and nonnetwork total				63,052	13,182		82,847	13,326	
SOUTH CAROLINA									
Nonnetwork									
Democrat, Zeigler	251	448		40,368	5,867		40,688	5,867	
Republican, Thurmond	251	594		53,059	13,285		57,382	13,285	
Other parties				1,566	23		1,666	81	
Nonnetwork total	502	1,042		94,993	19,160		99,735	19,233	
Network and nonnetwork total									118,969
SOUTH DAKOTA									
Nonnetwork									
Democrat, Albourek	218	643	142	19,601	7,327	\$597	23,333	7,327	\$857
Republican, Hirsch	234	576	30	18,879	10,117		19,474	10,117	
Nonnetwork total	452	1,219	172	38,480	17,444	597	42,807	17,444	857
Network and nonnetwork total									61,108
TENNESSEE									
Nonnetwork									
Democrat, Blanton	254	634	60	31,838	19,317		31,838	19,441	
Republican, Baker	102	423	30	139,136	24,240		139,136	24,348	
Other parties	95	104							
Nonnetwork total	451	1,161	90	170,974	43,557		170,974	43,789	
Network and nonnetwork total									214,763
TEXAS									
Nonnetwork									
Democrat, Sanders	30				2,500			2,500	
Republican, Tower					5,950			5,950	
Nonnetwork total	30				8,450			8,450	
Network and nonnetwork total									8,450





TABLE 4 U.S. SENATOR--1972 PRIMARY ELECTION POLITICAL BROADCASTING AND CABLECASTING

	Free time in minutes				Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television		Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>ALASKA</b>												
Nonnetwork												
Democrat Guess	30	165	10		\$665	\$5,924	\$69		\$665	\$5,685	\$69	\$6,419
Republican Stevens	230	142	10		2,736	8,261	181		2,736	8,261	181	11,178
Nonnetwork total	260	307	20		3,401	13,785	250		3,401	13,946	250	17,597
<b>ALABAMA</b>												
Nonnetwork												
Democrat												
Allen	163	100	45		24,179	1,568			24,214	1,795		26,009
Chestnut	15	128			4,821	1,337			4,821	1,337		6,158
Edgington	43											
Harper	15		30									
Mims	15	33			14,496	1,653			15,495	1,713		17,208
Sparkman	206	399			43,004	23,963	4		44,949	23,963	32	69,944
Sullivan	15	58			542	259			2,110	259		2,369
Total	472	718	75		87,042	28,780	4		91,589	29,067	32	120,688
Republican												
Blount	69	93	35		49,604	10,040			53,742	10,080		63,822
Callahan	73	88	30		1,090	428			1,090	428		1,518
Martin	69	194	60		1,326	6,519			1,361	6,637		8,998
Nettles	43	75	60			111				111		111
Total	254	450	185		51,020	17,098			55,193	17,256		72,449
Other parties												
Jordan												
Le Flore	55					76				96		96
Total	55					76				96		96
Nonnetwork total	781	1,168	260		138,062	45,954	4		146,782	46,419	32	193,233
<b>ARKANSAS</b>												
Nonnetwork												
Democrat												
Boswell	129	136			2,287	1,956			11,191	1,917		13,108
Ford					2,360				2,360			2,360
Fowler					1,252				1,552			1,552
Johnson	84	30										
McCallister	150	695			56,842	29,251	25		66,414	29,935	25	96,374
Total	363	961			60,681	31,157	25		69,756	31,852	25	101,633

REPORT: SUMMARY									
	490	1,508	101,402	54,634	25	131,283	55,760	25	187,068
Nonnetwork total									
COLORADO									
Nonnetwork:									
Democrat:	15	189		446		8,231	446		9,677
Haskell	15	181		919			919		919
Vollack									
Total	30	370	7,501	1,365		9,231	1,365		10,596
Republican: Allott		12	201				201		201
Nonnetwork total	30	382	7,501	1,566		9,231	1,566		10,797
DELAWARE									
Nonnetwork:									
Democrat: Biden		30							222
Republican: Boggs				207			222		222
Nonnetwork total	30		207				222		222
GEORGIA									
Nonnetwork:									
Democrat:									
Aynes	42	36							40
Bursan	51	201		40			40		40
Dokka	27	30							
Dorsey	35	146	1,508	212		1,508	212		1,720
Dusinski		54							
Gambrell	212	742	119,842	25,522		130,075	25,548		155,623
Graham	28	5							
Haupt				90			90		90
Irwin	3	15		547			547		547
Low	56	25	1,881	20		1,881	20		1,901
Nunn	187	1,274	40,847	28,803		42,928	28,464		72,392
Runyan	18	20							
Russell	32	63	6,892	3,858		6,692	3,856		10,548
Stoner	53	31	5,023			5,171			5,171
Vandiver	43	334	57,727	7,364		57,727	7,364		65,091
Wheeler	32	15				255			255
Williams	42	10		150			150		150
Total	851	3,001	233,520	66,604		246,237	67,291		313,528
Republican:									
Porter	15	5							
Thompson	44	228		1,547			1,547		1,547
Tucker	30	21							
Total	99	254		1,547			1,547		1,547
Nonnetwork total	950	3,255	233,520	68,151		246,237	68,838		315,075

TABLE 4 - U.S. SENATOR 1972 PRIMARY ELECTION POLITICAL BROADCASTING AND CABLECASTING Continued

	Free time in minutes			Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>IOWA</b>											
Nonnetwork:											
Democrat: Clark	15	31	70								
Republican											
Mittler	89	40	60								
Scott	59	31									
Total	128	71	60								
Other parties											
Benton	5	45									
Recap											
Total	5	45									
Nonnetwork total	148	147	130								
<b>IOARO</b>											
Network:											
Democrat:											
Bowman	3										
Davis	3										
Johnson	3										
Park	3										
Total	12										
Network total	12										
<b>Nonnetwork:</b>											
Democrat:											
Bowman	106	321	33		\$593	\$6	\$593		\$593	\$6	\$599
Davis	106	575			4 213		4 213	\$135	4 213		4 348
Johnson	106	411		\$8,870	4 714		9 485	4 714			14,199
Park	106	339		1,735	2 175		1 735	2 205			3 940
Total	424	1,646	33	10,605	11,695	6	11,725	11,725	6		23,086
<b>Republican:</b>											
Hansen	118	398		2,417	5 985		2 417	5 986			8,402
McClure	118	552		7,706	4 313		7 986	4 408			12,394
Sengle	118	438		6,813	2,122		6,813	2,122			8,935

Wagner	118	564	17,064	6,057	17,302	6,006	23,368
Whittaker							5
Total	472	1,953	34,000	18,462	34,518	18,586	53,104
Nonnetwork, total	886	3,599	44,605	30,177	45,873	30,311	76,180
Network and nonnetwork:							
Democrat:							
Bowman				593		593	599
Davis				4,213		4,213	6
Johnson			8,870	4,714	135	4,348	4,348
Park			1,735	2,175	9,485	4,714	14,189
Total			10,605	11,695	11,355	2,205	3,940
Republican:							
Hansen			2,417	5,985	2,417	5,985	8,402
McClure			7,706	4,313	7,966	4,408	12,374
Smylie			6,813	2,122	6,813	2,122	8,935
Wagner			17,064	6,057	17,302	6,066	23,368
Whittaker				5		5	5
Total			34,000	18,462	34,518	18,586	53,104
Network and nonnetwork, total			44,605	30,177	45,873	30,311	76,180
ILLINOIS							
Network:							
Democrat: Williams	3	12					
Republican: Percy							
Network total	3	12					
Nonnetwork:							
Democrat:							
Dekin		178		455		455	455
Pucinski	80	120	2,244	15,404	2,344	15,404	15,404
Williams	29			851		851	2,135
Total	109	299	2,244	16,800	2,344	16,800	19,144
Republican:							
Krane				137		137	137
Percy	86	174					
Total	86	174		137		137	137
Nonnetwork total	195	473	2,244	16,937	2,344	16,937	19,281

TABLE 4.—U. S. SENATOR—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
Network and nonnetwork:										
Democrat:										
Dakin						\$455			\$455	\$455
Fuchsel						15,494			15,494	15,494
Williams				\$2,244		851	\$2,344		851	3,194
Total				2,244		16,800	2,344		16,800	19,144
Republican:										
Kirane						137			137	137
Percy										
Total						137			137	137
Network and nonnetwork total										
				2,244		16,937	2,344		16,937	19,281
KANSAS										
Nonnetwork:										
Republican:										
House		73								
Pearson		10		3,315	3,119		3,315	3,119		6,434
Total		83		3,315	3,119		3,315	3,119		6,434
Other parties:										
Hahn		15								
Miller		23								
Total		38								
Nonnetwork total										
		121		3,315	3,119		3,315	3,119		6,434
KENTUCKY										
Nonnetwork:										
Democrat:										
Hickensmith	5	5				191			196	196
Hubbard										
Huddleston	10	65		245			245			245
Johnson	4	18		13,655	1,550		13,655	1,550		15,205
Van Winkle	4	15								
Walton	4	21								
Total	27	104		13,900	1,741		13,900	1,746		15,646

	REP	DEM	OTH	TOT	REP	DEM	OTH	TOT
<b>LOUISIANA</b>								
Nonnetwork:								
Democrat:								
Allen	9	136		145	21			21
Ellender	12	85		97	76			76
Johnston	25	135	15	275	890			890
					3,685			3,685
Total	46	356	15	417	987			987
Republican								
Toledano			15	15	700			700
Nonnetwork total	46	356	30	432	1,687			1,687
<b>MASSACHUSETTS</b>								
Nonnetwork:								
Democrat:								
Droner	20	95	10	125	20			20
Lynch	20	45		65	232			232
O'Leary	40	25		65	1,921			1,921
Sammarita		80		80				
Total	80	253	10	343	2,153			2,153
Republican:								
Brooke	30	265		295	1,057			1,057
Other parties:								
Wylie					247			247
Nonnetwork total	110	518	10	638	3,430			3,430
<b>MAINE</b>								
Nonnetwork:								
Democrat:								
Hathaway	185	325		510				
Smith, J.	245	160		405				
Total	430	485		915				
Republican:								
Monks	215	861		1,076	7,929			7,929
Smith, M.	45	125		170				
Total	260	986		1,246	7,929			7,929
Nonnetwork total	690	1,471		2,161	7,929			7,929



Eastland	30	\$38,142	8,917	42,453	10,773	53,226
Fondren	63	741	321	1,338	1,965	1,658
Webb	3	10,101	1,955	15,372	1,965	17,337
Total	96	48,984	11,193	59,163	13,059	72,222
Republican	33		397		427	427
Carmichael	46		10		20	20
Meredith						
Total	79		407		447	447
Other parties Walker			25		34	34
Nonnet total	175	48,984	11,625	59,163	13,540	72,703

## MONTANA

Nonnetwork	77		2,547		2,547	2,547
Democrat Metcalf						
Republican	104		29	5,574	29	5,603
Hibbard	25					
Wallace	45		1,672		1,672	1,672
Wheeler						
Total	174		1,701	5,574	1,701	7,275
Nonnetwork total	251		4,248	5,574	4,248	9,822

## NORTH CAROLINA

Nonnetwork	253		25,208	32,648	25,248	57,896
Democrat	30		1,098		1,098	1,098
Brown	398		13		13	13
Garfield	30		34		34	34
Graco	415		23,726	54,868	23,738	78,606
Hill			33		33	33
Jordan			230		230	230
Potter						
Spencer						
Stanton						
Total	1,438	807	50,342	87,516	50,394	137,910
Republican	253		1,200	1,200		1,200
Booe	262		3,494	13,024	4,509	17,533
Holms	259		2,185		2,185	2,185
Johnson						
Total	506	288	5,679	14,224	6,694	20,916
Nonnetwork Total	1,944	1,095	56,021	101,740	57,088	158,828



TABLE 4.—U.S. SENATOR—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

		Free time in minutes			Charges for announcements			Total charges for time and announcements		
		Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Total
<b>NEBRASKA</b>										
Nonnetwork:										
Democrat:										
Carpenter	28		50		\$607	\$90		\$11,933	\$90	\$12,023
De Camp	28		50							
Lyons	28		110							
Peterson	28		155		6,300	3,406		6,300	3,406	9,706
Searcy	28		110							
Ziebarth	28		50		11,963	6,655		11,963	6,655	18,618
Total	168		525		18,870	10,151		30,196	10,151	40,347
Republican:										
Blauvelt	28		140							
Curtis	28		204		2,148	1,386		2,148	1,386	3,534
Glebe	28		110				\$50			\$50
Kneifel	28		110		23			23		23
Total	112		564		2,171	1,936	50	2,171	1,936	4,157
Nonnetwork total	280		1,089		21,041	12,087	50	32,367	12,087	44,504
<b>NEW HAMPSHIRE</b>										
Nonnetwork:										
Democrat: McIntyre	15		129						221	221
Republican:										
Booras	15		681	5		9,687			9,687	9,687
Brook	20		373	15		2,982		84	2,982	3,066
Cobleigh	45		399			2,463		585	2,463	3,048
Powell	10		343			3,221			3,221	3,261
Total	90		1,796	20		18,553		689	18,553	19,262
Nonnetwork total	105		1,925	20		18,774		689	18,814	19,483
<b>NEW JERSEY</b>										
Nonnetwork:										
Democrat:										
Gaby	40		62			8,582			8,582	8,582
Karcher	10		32			1,239			1,239	1,239
Kelbaso			2							

	39	33	137	137	137	137
Ralph...	39	33	137	137	137	137
Total	66	194	11,977	11,977	11,977	11,977
Nonnetwork total.	90					
NEW MEXICO						
network:						
Democrat						
Cargo	18	30	859	859	859	859
Chavez			313	313	313	313
Cole						
Daniel	18	189	9,887	9,887	9,887	9,887
Daniel	18	39	77	25,881	25,881	20
Lilun	18					
Dowalby	18			275	275	275
Espinoza	18					
Garvey	18					
Herrera	18	30	65	125	125	125
Jaramelo	18	38				
Koregay	18	168	912	5,343	912	6,255
Krezan	18					
Larragute	18					
Lee	18	39	52	52	52	52
Macalove	18	30				
McDonald						
McGovern	18	30	122	122	122	122
Meir	18		3,939	1,869	3,939	5,808
Mondragon	18	123	2,019	743	2,666	3,409
Morris	18	216	1,676	5,280	1,676	6,956
Nell	18	35				
Norman	18	40				
Novak	18	198	77	4,567	1,921	6,488
Ortega	18			412	113	525
Total	360	1,505	154	44,432	22,807	68,041
Republican.						
Cargo	18	160	57	333	1,104	1,104
Chavez	18	4				
Dahnke	18					
Domenic	18	397	77	4,477	1,476	6,286
Francis	18	182	57	2,191	2,040	4,791
Gallegos	18				146	146
Kurcaba	18	40				
Montoya	18				383	383
Total	144	783	191	7,001	5,149	12,455
Nonnetwork total	504	2,288	345	51,433	27,956	80,586

TABLE 4. U.S. SENATOR—1972 PRIMARY ELECTION POLITICAL BROADCASTING AND CABLECASTING Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>OKLAHOMA</b>									
Network—									
Democrat									
Edmondson								\$1,438	
Tiffany								135	
Total								1,573	
Network total								1,573	
Nonnetwork—									
Democrat									
Edmondson	100	468	20	\$30 013	4,189		\$32,147	8,672	
Johnson	96	968		8,454	513		9,222	513	
Knipp		85							
Luper	26	1,245			10			10	
Nesbitt	56	1,003		23,383	19,489		23,383	20,417	
Rogers	56	595		5,922			6,279		
Terrill	76	1,032		6,192	4,302		6,372	4,302	
Tiffany	26	945		1,301	82		1,301	82	
Total	436	6,321	20	75,265	28,585		78,704	33,896	
Republican—									
Barlett	56	981	20	8,026	152		6,366	241	
Smith	26								
Wood		125			97			97	
Total	82	1,106	20	8,026	249		9,366	338	
Other parties—									
Phillips	26	30							
Trent		30							
Total	26	60							
Network total	544	7,487	40	83,291	28,834		88,070	34,334	
Nonnetwork total									
Democrat									
Edmondson				30 013	5,627		32,147	10,110	
Johnson				8,454	513		9,222	513	
Total									
Republican									
Barlett									
Smith									
Wood									
Total									
Other parties									
Phillips									
Trent									
Total									
Network and nonnetwork total									
Democrat									
Edmondson									
Johnson									
Total									
Republican									
Barlett									
Smith									
Wood									
Total									
Other parties									
Phillips									
Trent									
Total									
Network and nonnetwork total									
Democrat									
Edmondson									
Johnson									
Total									
Republican									
Barlett									
Smith									
Wood									
Total									
Other parties									
Phillips									
Trent									
Total									
Network and nonnetwork total									
Democrat									
Edmondson									
Johnson									
Total									
Republican									
Barlett									
Smith									
Wood									
Total									
Other parties									
Phillips									
Trent									
Total									
Network and nonnetwork total									
Democrat									
Edmondson									
Johnson									
Total									
Republican									
Barlett									
Smith									
Wood									
Total									
Other parties									
Phillips									
Trent									
Total									
Network and nonnetwork total									
Democrat									
Edmondson									
Johnson									
Total									
Republican									
Barlett									
Smith									
Wood									
Total									
Other parties									
Phillips									
Trent									
Total									
Network and nonnetwork total									
Democrat									
Edmondson									
Johnson									
Total									
Republican									
Barlett									
Smith									
Wood									
Total									
Other parties									
Phillips									
Trent									
Total									
Network and nonnetwork total									
Democrat									
Edmondson									
Johnson									
Total									
Republican									
Barlett									
Smith									
Wood									
Total									
Other parties									
Phillips									
Trent									
Total									
Network and nonnetwork total									
Democrat									
Edmondson									
Johnson									
Total									
Republican									
Barlett									
Smith									
Wood									
Total									
Other parties									
Phillips									
Trent									
Total									
Network and nonnetwork total									
Democrat									
Edmondson									
Johnson									
Total									
Republican									
Barlett									
Smith									
Wood									
Total									
Other parties									
Phillips									
Trent									
Total									
Network and nonnetwork total									
Democrat									
Edmondson									
Johnson									
Total									
Republican									
Barlett									
Smith									
Wood									
Total									
Other parties									
Phillips									
Trent									
Total									
Network and nonnetwork total									
Democrat									
Edmondson									
Johnson									
Total									
Republican									
Barlett									
Smith									
Wood									
Total									
Other parties									
Phillips									
Trent									
Total									
Network and nonnetwork total									
Democrat									
Edmondson									
Johnson									
Total									
Republican									
Barlett									
Smith									
Wood									
Total									
Other parties									
Phillips									
Trent									
Total									
Network and nonnetwork total									
Democrat									
Edmondson									
Johnson									
Total									
Republican									
Barlett									
Smith									
Wood									
Total									
Other parties									
Phillips									
Trent									
Total									
Network and nonnetwork total									
Democrat									
Edmondson									
Johnson									
Total									
Republican									
Barlett									
Smith									
Wood									
Total									
Other parties									
Phillips									
Trent									
Total									
Network and nonnetwork total									





Democrat	77	292	1 770	3 948	1 770	3 948	5 718
Abolition	56	67	749	434	\$150	439	1 383
Blue							
Total	133	359	2 519	4 382	150	4 387	7 101
Republican	132	344	5 131	3 210	120	3 210	10 575
Hussey	132	328	18 986	8 906		8 917	31 510
Lien	132	278	2 856	4 864		4 870	8 432
Madland	72	104	19 861	3 209		3 209	25 966
Reardon	72	163	1 183	1 496		1 496	7 713
Sorferahn							
Total	540	1 217	47 817	21 685	120	21 712	84 196
Nonnetwork total	673	1 576	50 336	26 067	270	26 099	91 297

## TENNESSEE

Nonnetwork	81	435	10 616	10 237	10 616	10 237	20 853
Democrat	25	111		1 404	175	1 404	1 579
Banton	20	80					
Frey	25	114	3 220	226	3 220	226	3 446
Gibbs	20	115					
Palmer							
Shopton							
Total	171	855	13 836	11 867	14 011	11 867	25 878

Republican	80	39	79 215	234	79 215	295	79 510
Baker	25	80					
Pally							
Total	105	119	79 215	234	79 215	295	79 510
Nonnetwork total	276	974	93 051	12 101	93 426	12 162	105 388

## TEXAS

Network							
Democrat				350		350	350
Sanders				900		900	900
Yarborough							
Total				1 250		1 250	1 250
Nonnetwork total				1 250		1 250	1 250

TABLE 4.—U. S. SENATOR—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
TEXAS—Continued										
Nonnetwork:										
Democrat										
Carlisle	86	41			\$273			\$273		\$273
Caton					655			655		655
Crighton					847			847		847
Jackson				\$505			\$551			651
Johnson					1 036			1 036		1 036
McKnight					32 502		38 231	32 522		70 753
Sanders	319	417	28	30 488		134				134
Sisalings										
Veloz	37	8								
Wilson					270			320		320
Windle					562			562		562
Yarborough	168	265	28	50 345	35 191		76 278	35 821		112 099
Total	608	731	56	81 338	71 470		115 160	72 170		187 330
Republican:										
Neupert					201			201		201
Tower	126	91		2 133	280		33 124	415		33 539
Total	126	91		2 133	481		33 124	616		33 740
Nonnetwork total	734	822	56	83 471	71 951		148 284	72 786		221 070
Network and nonnetwork:										
Democrat										
Carlisle								273		273
Caton								655		655
Crighton								847		847
Jackson										651
Johnson										1 036
McKnight				505			651	1 036		1 036
Sanders				30 488	37 502		38 231	32 522		71 103

Stallings	134	134	134
Wieg	320	320	320
Wilde	562	562	562
Worthington	36,091	76,278	36,721
Yarborough	50,345		
Total	83,338	72,720	115,160
Republican			
Maugham	201		201
Tower	289	33,124	415
Total	2,133	33,124	616
Network and nonnetwork total	83,471	73,201	148,284
WEST VIRGINIA			
Nonnetwork:			
Democrat:			
McKown	31		310
Randolph	26	9,120	3,014
Total	26	9,120	3,324
Republican:			
Hinkle	35		35
Leonard	54		430
Total	63		465
Nonnetwork total	89	9,120	3,789
WYOMING			
Nonnetwork:			
Democrat:			
Henry	70		39
Shanklin	15		
Total	85		39
Republican: Hansen	45		424
Nonnetwork total	130		463



TABLE 5 U.S. REPRESENTATIVES: 1972 GENERAL ELECTION POLITICAL BROADCASTING AND CABLECASTING

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
ALASKA										
Congressional District No. 1:										
Nonnetwork										
Democrat Begich	35	45	10	\$5,430	\$4,035	\$200	\$5,430	\$4,142	\$200	\$9,772
Republican Young		187	15	4,236	2,779		5,541	3,208	90	8,839
Nonnetwork total	35	232	25	9,666	6,794	200	10,971	7,350	290	18,611
ALABAMA										
Congressional District No. 1:										
Nonnetwork										
Republican Edwards	28	35		4,529	3,003		4,529	3,003		7,582
Other parties McAbey			5		81			81		31
Nonnetwork total	28	35	5	4,529	3,084		4,529	3,084		7,613
Congressional District No. 2:										
Nonnetwork										
Democrat Reeves	20	20		18,434	5,946		19,183	6,241		25,424
Republican Dickinson	29	20		17,231	4,690		18,022	4,720		22,742
Other parties										
Boone	145	24			102			102		102
Garth	7	5			7			7		7
Nonnetwork total	181	69		35,665	10,745		37,205	11,070		48,275
Congressional District No. 3:										
Nonnetwork										
Democrat Nichols			60	10	1,613		270	1,613		1,883
Republican Kerr					830			830		830
Other parties Ford					125			125		125
Nonnetwork total			60	10	2,568		270	2,568		2,838
Congressional District No. 4										
Nonnetwork										
Democrat Bawill	25			10	2,227		270	2,227		2,497
Republican Nelson	19				1,282			1,282		1,282
Nonnetwork total	44			10	3,509		270	3,509		3,779

Democrat Jones	5,571	25	5,332	25	8,857
Republican Schrader	2,588	193	2,586	193	2,791
Nonnetwork total	8,159	218	8,430	218	8,648
Congressional District No. 6:					
Nonnetwork					
Democrat Erdreich	133	21	270	1,995	2,265
Republican Buchanan	190			2,215	2,215
Other parties:					
Scott	131				
Thomas	100			642	937
Nonnetwork total	554	21	565	4,852	5,417
Congressional District No. 7:					
Nonnetwork					
Democrat Flowers	82	10	271		271
Other parties:					
Black	143			168	168
Radue	63				
Nonnetwork total	288	10	271	168	439
ARKANSAS					
Congressional District No. 1:					
Nonnetwork					
Democrat Alexander		191	191	243	191
Republican Young				243	243
Nonnetwork total		191	191	243	434
Congressional District No. 3:					
Nonnetwork					
Democrat Hatfield	7	200	200	150	350
Republican Hammerschmidt				1,338	1,338
Nonnetwork total	7	200	200	1,488	1,695
ARIZONA					
Congressional District No. 1:					
Nonnetwork					
Democrat Pollock	25	8,267	9,137	1,769	10,906
Republican Rhodes	25	1,688	3,065	8,760	11,825
Nonnetwork total	50	9,955	12,202	10,529	22,731

TABLE 5.—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>ARIZONA—Continued</b>									
Congressional District No. 2:									
Network:									
Democrat: Udall.....	20								
Network total.....	20								
Nonnetwork:									
Democrat: Udall.....	406	236		\$170	\$5,200		\$1,023	\$3,212	\$24
Republican: Saville.....	76	212		3,417	1,854		4,024	1,866	24
Nonnetwork total.....	482	448		3,587	7,054		5,447	7,078	48
Network and nonnetwork:									
Democrat: Udall.....				170	5,200		1,023	5,212	24
Republican: Saville.....				3,417	1,854		4,024	1,866	24
Network and nonnetwork total.....				3,587	7,054		5,447	7,078	48
<b>Congressional District No. 3:</b>									
Nonnetwork:									
Democrat: Wyckoff.....	348	382			171		712	171	
Republican: Steger.....	60	153		1,022	1,562		1,544	1,566	
Nonnetwork total.....	408	535		1,022	1,733		2,256	1,737	
<b>Congressional District No. 4:</b>									
Nonnetwork:									
Democrat: Brown.....	90	134		13,543	4,486		15,826	4,566	
Republican: Collins.....	91	319		13,934	4,663		15,574	4,706	
Nonnetwork total.....	181	453		27,477	9,149		31,400	9,274	
<b>CALIFORNIA</b>									
Congressional District No. 1:									
Nonnetwork:									
Democrat: Nighswonger.....	48	70		272	707		1,038	707	
Republican: Clausen.....	42	41		1,666	1,632		1,666	1,632	
Other parties: Ames.....	48								
Nonnetwork total.....	138	111		1,938	2,339		2,704	2,339	
Nonnetwork total.....									5,043

<b>Congressional District No. 2:</b>									
Nonnetwork:									
Democrat: Johnson	15	7	20	3,731	3,444	3,731	3,444		7,175
Republican: Calahan	48	50		2,071	856	2,071	856		2,927
Other parties: Parale	15	5							
Nonnetwork total	79	62	20	5,802	4,270	5,802	4,270		10,072
<b>Congressional District Number 3:</b>									
Nonnetwork:									
Democrat: Moss						713			713
Nonnetwork total						713			713
<b>Congressional District No. 4:</b>									
Nonnetwork:									
Democrat: Moss	22	15		3,119	2,402	6,236	2,402		8,638
Republican: Rakos									
Nonnetwork total	22	15		3,119	2,402	6,236	2,402		8,638
<b>Congressional District No. 5:</b>									
Nonnetwork:									
Democrat: Moss				3,119	2,402	6,949	2,402		9,351
Republican: Rakos									
Nonnetwork total				3,119	2,402	6,949	2,402		9,351
<b>Congressional District Number 6:</b>									
Nonnetwork:									
Democrat: Leggett		15							
Nonnetwork total		15							
<b>Congressional District No. 7:</b>									
Nonnetwork:									
Democrat: Burian	4	7							
Republican: Powell	7	63			253		253		253
Other parties:									
Staniel	3								
Voss	4								
Nonnetwork total	18	70			253		253		253
<b>Congressional District No. 8:</b>									
Nonnetwork:									
Democrat: Beas	7	235		18,965	5,009	18,965	5,009		23,974
Republican: Mailand	17	207		6,312	19,435	6,312	19,435		25,747
Nonnetwork total	24	442		25,277	24,444	25,277	24,444		49,721

TABLE 5. U.S. REPRESENTATIVES 1972 GENERAL ELECTION POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
CALIFORNIA Continued										
Congressional District No. 7.										
Network	30						\$1,427			\$1,427
Democrat Dellums	30						1,427			1,427
Network total	30						1,427			1,427
Nonnetwork	107	144	30		\$1,773	\$140		\$1,773	\$140	1,913
Democrat Dellums	7	113	45		1,983			1,983		1,983
Republican Hanaford	7	23	15							
Other parties Cortese										
Nonnetwork total	121	280	90		3,756	140		3,756	130	3,886
Network and nonnetwork										
Democrat Dellums					1,773	140	1,427	1,773	140	3,340
Republican Hanaford					1,983			1,983		1,983
Other parties Cortese										
Network and nonnetwork total					3,756	140	1,427	3,756	140	5,323
Congressional District No. 8:										
Nonnetwork	7	61	103		2,903			2,903		2,903
Democrat Stark	7	61	103		2,481		1,836	2,481		4,317
Republican Warden										
Nonnetwork total	14	122	206		5,384		1,836	5,384		7,220
Network and nonnetwork										
Congressional District No. 9							713			713
Network							713			713
Democrat Edwards										
Network total							713			713
Nonnetwork	56	40								
Democrat Edwards	22	45			733			733		733
Republican Smith	14	145								
Other parties Kaiser										
Nonnetwork total	92	230			733			733		733

Nonnetwork	22	86	80	\$240	1,649	240	1,649	1,889
Democrat Gillette	19	67	80		4,478		4,478	4,478
Republican Gubser								
Nonnetwork total	41	153	160	240	6,127	240	6,127	6,367
Congressional District No. 11.								
Nonnetwork	15	84	421					
Democrat Ryan	15	150	420					
Republican Chase	15	140	210					
Other parties Kudouzaft								
Nonnetwork total	45	374	1,051					
Congressional District No. 12.								
Nonnetwork	12	855	120	5,008	3,922	163	3,952	9,160
Democrat Camacho		442	120	8,985	4,616		4,616	13,601
Republican Talcott		90		482	419		419	986
Other parties Monteith								
Nonnetwork total	24	1,387	240	14,585	8,957	163	14,560	23,747
Congressional District No. 13.								
Nonnetwork	9	38			181		181	181
Democrat Cleveland	12	38		459	964		964	1,427
Republican Teague								
Nonnetwork total	21	76		459	1,145		1,145	1,604
Congressional District No. 14.								
Nonnetwork								
Democrat Waldie								
Network total						1,427		1,427
Nonnetwork	714		303					
Democrat Waldie	34	56	88					
Republican Sims								
Nonnetwork total	208	56	191					
Network and nonnetwork						1,427		1,427
Democrat Waldie								
Republican Sims								
Network and nonnetwork total						1,427		1,427

TABLE 5.—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>CALIFORNIA—Continued</b>									
<b>Congressional District No. 15:</b>									
Nonnetwork:									
Democrat: McFall		70							
Nonnetwork total		60							
<b>Congressional District No. 16:</b>									
Nonnetwork:									
Democrat: Sisk	2	35		\$4,029	\$1,991		\$4,029	\$1,991	
Republican: Harner	1	37		2,726	411		2,726	411	
Nonnetwork total	3	72		6,755	2,402		6,755	2,402	
Nonnetwork total									9,157
<b>Congressional District No. 17:</b>									
Network:									
Republican: McCloskey							713		
Network total							713		
Nonnetwork:									
Democrat: Stewart	57	160	5		2,135			2,135	
Republican: Knapp	34	5	5						
McCloskey	53	34	65	12,888	4,772		12,888	4,772	
Other parties: Reed	3	10							
Nonnetwork total	147	209	75	12,888	6,907		12,888	6,907	
Nonnetwork total									19,795
<b>Network and nonnetwork:</b>									
Democrat: Stewart								2,135	
Republican:									
Knapp									
McCloskey				12,888	4,772		13,601	4,772	
Other parties: Reed									
Network and nonnetwork total				12,888	6,907		13,601	6,907	
Network and nonnetwork total									20,593
<b>Congressional District No. 18:</b>									
Network:									
Republican: Mathias	10								

<b>Nonnetwork:</b>				
Democrat: Lavery	32	112	766	762
Republican: Mathias	117	135	3,113	3,113
<b>Nonnetwork total</b>	<b>149</b>	<b>247</b>	<b>3,859</b>	<b>3,875</b>
<b>Network and nonnetwork:</b>				
Democrat: Lavery			766	762
Republican: Mathias			3,113	3,113
<b>Network and nonnetwork total</b>			<b>3,859</b>	<b>3,875</b>
<b>Congressional District No. 19:</b>				
<b>Nonnetwork:</b>				
Democrat: Hollifield		6		
Republican: Fisher		8		
<b>Nonnetwork total</b>		<b>14</b>		
<b>Congressional District No. 20:</b>				
<b>Nonnetwork:</b>				
Democrat: Binkley		2		
Republican: Moorhead		14		99
<b>Nonnetwork total</b>		<b>16</b>		<b>99</b>
<b>Congressional District No. 22:</b>				
<b>Nonnetwork:</b>				
Democrat: Carmichael	30		439	439
Republican: Wolfe	18		261	261
<b>Nonnetwork total</b>	<b>48</b>		<b>700</b>	<b>700</b>
<b>Congressional District No. 24:</b>				
<b>Nonnetwork:</b>				
Democrat: Mandell		42	277	277
Republican: Rouselle			75	75
<b>Nonnetwork total</b>		<b>42</b>	<b>352</b>	<b>352</b>
<b>Congressional District No. 25:</b>				
<b>Nonnetwork:</b>				
Democrat: Craven		6		74
Republican: Wiggins		8		
<b>Nonnetwork total</b>		<b>12</b>		<b>74</b>

\*\* Write-in candidate.



TABLE 5 U.S. REPRESENTATIVES—1972 GENERAL ELECTION POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
CALIFORNIA, Continued										
Congressional District No. 26										
Nonnetwork										
Democrat	29									
Anderson	100	10			\$180			\$180		\$180
Rees		2								
Other parties										
Trinko										
Nonnetwork total	129	12			180			180		180
Congressional District No. 27										
Nonnetwork										
Democrat		44			1,763			1,763		1,763
Novak		58			4,933			4,933		4,933
Republican										
Goldwater										
Nonnetwork total		102			6,696			6,696		6,696
Congressional District No. 28										
Network							\$1,427			1,427
Democrat										
Shapiro										
Network total							1,427			1,427
Nonnetwork										
Democrat	15				2,970			2,970		2,970
Shapiro										
Republican		2								
Beil										
Other parties										
Hampton										
Nonnetwork total	15	2			2,970			2,970		2,970
Network and nonnetwork										
Democrat					2,970		1,427	2,970		4,397
Shapiro										
Republican										
Beil										
Other parties										
Hampton										
Network and nonnetwork total					2,970		1,427	2,970		4,397
Congressional District No. 29										
Nonnetwork										
Democrat		16			42			42		42
Danielson		102								
Republican										
Ferraro										
Nonnetwork total										
Network and nonnetwork total										
Democrat										
Danielson										
Republican										
Ferraro										
Nonnetwork total										
Network and nonnetwork total										

Continued on next page



TABLE 5.—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
CALIFORNIA—Continued										
Congressional District No. 37:										
Nonnetwork:										
Democrat: Burke		90								
Republican: Trea		92								
Nonnetwork total		182								
Congressional District No. 38:										
Network:										
Democrat: Brown							\$1,427			\$1,427
Network total							1,427			1,427
Nonnetwork:										
Democrat: Brown		11			\$3,132			\$3,132		3,132
Republican: Snider		11			5,831			5,831		5,831
Other parties: Granidos					156			156		156
Nonnetwork total		22			9,119			9,119		9,119
Network and nonnetwork:										
Democrat: Brown					3,132			3,132		3,132
Republican: Snider					5,831		1,427	5,831		5,831
Other parties: Granidos					156			156		156
Network and nonnetwork total					9,119		1,427	9,119		10,546
Congressional District No. 39:										
Nonnetwork:										
Democrat: Black		1								
Republican: Schmitz		90						180		180
Nonnetwork total		91						64		64
Network and nonnetwork:										
Democrat: Black										
Republican: Schmitz								244		244
Nonnetwork total		91						244		244
Congressional District No. 40:										
Nonnetwork:										
Democrat: Caprio	34	36	\$210					935		935
Republican: Wilcox	134	36						2,673		2,673
Nonnetwork total	168	72	210					1,608		1,608
Network and nonnetwork:										
Democrat: Caprio										
Republican: Wilcox								1,581		1,581
Nonnetwork total								1,608		1,608

Congressional District No. 41:									
Nonnetwork:									
Democrat: Van Dine	36	66	210	84,787	4,787				4,787
Republican: Kau	32	60	210	896	896				896
Nonnetwork total	68	126	420	5,483	5,683				5,683
Congressional District No. 42:									
Nonnetwork:									
Democrat: Lowe	22	30	210						
Republican: Burger	23	26	210						
Other parties: Mohr	22	28	210						
Nonnetwork total	67	84	630						
Congressional District No. 43:									
Nonnetwork:									
Democrat: Robles	2	10			1,209			1,209	1,209
Republican: Veysey		20			1,531			1,531	1,531
Nonnetwork total	2	30			2,740			2,740	2,740
COLORADO									
Congressional District No. 1:									
Nonnetwork:									
Democrat: Schroeder	47	121		17,678	4,625		17,678	4,752	22,439
Republican: McKevitt	55	64		12,933	2,727		15,533	2,974	18,507
Other parties:									
Gapin	27	15							
Serna	27	23							
Nonnetwork total	156	223		30,611	7,352		33,211	7,726	40,937
Congressional District No. 42:									
Nonnetwork:									
Democrat: Brush	41	107			577			577	577
Republican: Brozman	30	28		6,565	3,256		6,695	3,256	9,951
Other parties: Houtman	16	15							
Nonnetwork total	87	150		6,565	3,833		6,695	3,833	10,528
Congressional District No. 3:									
Nonnetwork:									
Democrat: Evans	60	332		5,281	9,748		5,281	9,748	15,029
Republican: Brady	75	194		996	437		996	437	1,436
Nonnetwork total	135	526		6,279	10,185		6,279	10,185	16,464

TABLE 5 U.S. REPRESENTATIVES 1972 GENERAL ELECTION POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Total
<b>CALIFORNIA—Continued</b>									
Congressional District No. 4									
Network									
Democrat Merson							\$1,427		\$1,427
Network total							1,427		1,427
Nonnetwork									
Democrat Merson	45	243		\$6,262	\$6,002		6,262	\$5,002	12,264
Republican Johnson	39	252		7,529	4,652		7,529	4,658	12,187
Nonnetwork total	84	495		13,791	10,654		13,791	10,660	24,451
Network and nonnetwork									
Democrat Merson				6,262	5,002		7,589	5,002	13,591
Republican Johnson				7,529	4,652		7,529	4,658	12,187
Network and nonnetwork total				13,791	10,654		15,218	10,660	25,878
Congressional District No. 5:									
Nonnetwork									
Democrat Johnson	53	212			3,266			3,274	3,274
Republican Armstrong	85	172		8,225	7,493		8,225	8,258	16,483
Other parties Boys	26	113	56	239	519		239	519	758
Nonnetwork total	164	497	56	8,464	11,278		8,464	12,051	20,515
<b>CONNECTICUT</b>									
Congressional District No. 1:									
Nonnetwork									
Democrat Colter	109	126		20,429	8,049		20,429	8,049	28,478
Republican Rittenband	111	64		11,267	9,922		14,569	9,922	24,491
Other parties Burke	79	72							
Nonnetwork total	299	262		31,696	17,971		34,998	17,971	52,969



TABLE 5 U.S. REPRESENTATIVES-1972 GENERAL ELECTION POLITICAL BROADCASTING AND CABLECASTING-Continued

	Free time in minutes			Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>DISTRICT OF COLUMBIA</b>											
Congressional District No. 1:											
Network											
Democrat Fauntroy	2										
Network total	2										
Nonnetwork											
Democrat Fauntroy	208	372			\$5,889			\$1,138	\$5,889		\$7,027
Republican Chin Lee	63	152		\$2,000	7,496			2,000	7,496		9,496
Other parties											
Ahmed	4				454				454		454
Cassell	98	151									
Dabney	63	133									
Fagg	63	135									
Hassan	45	57			600				600		600
Nonnetwork total	544	1,020		2,000	14,439			3,138	14,439		17,577
Network and nonnetwork											
Democrat Fauntroy					5,889			1,138	5,889		7,027
Republican Chin Lee				2,000	7,496			2,000	7,496		9,496
Other parties											
Ahmed					454				454		454
Cassell											
Dabney											
Fagg					600				600		600
Hassan											
Network and nonnetwork total				2,000	14,439			3,138	14,439		17,577
<b>DELAWARE</b>											
Congressional District No. 1											
Network								1,427			1,427
Democrat Handlopf											
Network total								1,427			1,427

<b>House Networks:</b>									
Democrat: Handloff	34	339			10,448		10,448		10,448
Republican: DuPont	38	356	2,126		11,772	2,446	11,305		11,751
Other parties: LaPresle		286							
Nonnetwork total	70	981	2,126	21,720		2,446	21,753		24,169
<b>Networks and nonnetwork:</b>									
Democrat: Handloff					10,448		10,448		11,875
Republican: DuPont			2,126		11,772	2,446	11,305		13,751
Other parties: LaPresle									
Network and nonnetwork total			2,126	21,720		3,873	21,753		25,626
<b>FLORIDA</b>									
<b>Congressional District No. 1:</b>									
Nonnetwork:									
Democrat: Sikes				385			385		385
Nonnetwork total				385			385		385
<b>Congressional District No. 3:</b>									
Nonnetwork:									
Democrat: Bennett	71			1,873			2,101		2,101
Republican: Bowen	43								
Nonnetwork total	114			1,873			2,101		2,101
<b>Congressional District No. 4:</b>									
Nonnetwork:									
Democrat: Chappell	46	314		18,129	7,033		10,469	7,833	17,502
Republican: Fleischman	65	164		2,131	2,492		2,256	2,492	4,751
Nonnetwork total	111	468		12,310	9,525		12,726	9,525	22,253
<b>Congressional District No. 5:</b>									
Nonnetwork:									
Democrat: Gunter	52	135	60	6,696	4,586		6,696	4,586	11,282
Republican: Insko	65	134	60	1,868	1,495		1,868	1,495	3,463
Nonnetwork total	117	269	120	8,664	6,081		8,664	6,081	14,745
<b>Congressional District No. 6:</b>									
Nonnetwork:									
Democrat: Plunkett	14								
Republican: Young	14			5,364	1,529		5,364	1,529	6,893
Nonnetwork total	28			5,364	1,529		5,364	1,529	6,893



TABLE 5. U.S. REPRESENTATIVES 1972 GENERAL ELECTION - POLITICAL BROADCASTING AND CABLECASTING - Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
FLORIDA - Continued										
Congressional District No. 7.										
Nonnetwork										
Republican Carter				\$1,552			\$1,552			\$1,552
Nonnetwork total				1,552			1,552			1,552
Congressional District No. 8										
Nonnetwork										
Democrat Haley	8	17	13	1,557	\$1,906		1,557	\$1,906		3,463
Republican Thompson	10	17		5,699	2,229		5,699	2,299		7,998
Nonnetwork total	18	34	13	7,256	4,205		7,256	4,205		11,461
Congressional District no. 10:										
Nonnetwork										
Democrat										
Scott*	9			1,691	293		1,691	283		1,974
Sikes	15	107		3,600	2,660		3,600	2,660		6,260
Republican Bailes	15	87		9,260	5,493		9,260	5,493		14,753
Nonnetwork total	39	194		14,551	8,446		14,551	8,446		22,997
Congressional District No. 11.										
Nonnetwork										
Democrat Rogers	15	127		13,637	2,520		13,637	2,520		16,157
Republican Gustafson	15	73		11,480	2,106		11,480	2,106		13,586
Nonnetwork total	30	200		25,117	4,626		25,117	4,626		29,743
Congressional District No. 12										
Nonnetwork										
Democrat Stephens	30	24	10	8,605	1,690		8,605	1,690		10,295
Republican Burke	30	20			1,954			1,954		1,954
Nonnetwork total	60	44	10	8,605	3,644		8,605	3,644		12,249
Congressional District No. 13:										
Nonnetwork										
Democrat Lehman	45	68		5,034	917		5,034	917		5,951
Republican Bethel	50	70		2,873	1,797		2,873	1,797		4,670
Nonnetwork total	95	138		7,907	2,714		7,907	2,714		10,621

Nonnetwork:	30	30	2,275	2,275	2,275	2,275
Democrat: Popper	15	30				
Republican: Estrella						
Nonnetwork total	45	60	2,275	2,275	2,275	2,275
Congressional District No. 15:						
Nonnetwork:	15	72	2,149	15,077	2,149	17,226
Democrat: Fessell	30	164	1,848		1,848	1,848
Republican: Rubin						
Nonnetwork total	45	236	3,997	15,077	3,997	19,074
GEORGIA						
Congressional District No. 1:						
Nonnetwork:			174	261		261
Democrat:						
Nonnetwork total			174	261		261
Congressional District No. 3:						
Nonnetwork:	3					
Democrat: Brinkley						
Nonnetwork total	3					
Congressional District No. 4:						
Nonnetwork:	10					
Republican: Blackburn						
Nonnetwork total	10					
Congressional District No. 5:						
Nonnetwork:	16	27	6,018	1,680	4,018	1,680
Democrat: Young	17	27	15,987	5,736	15,987	5,736
Republican: Cook						
Other parties: Jones	17					
Nonnetwork total	50	54	22,005	7,416	22,005	7,416
Congressional District No. 7:						
Nonnetwork:						
Democrat: Davis						
Republican: Sherrill						
Nonnetwork total						
Congressional District No. 8:						
Nonnetwork:	43	78	1,717	2,737	1,972	3,217
Democrat: Stuckey	43	127	6,800	3,032	9,146	3,032
Republican: Thompson						
Nonnetwork total	86	205	8,517	5,769	11,112	6,249

\*\*Primary election run-off candidate.

TABLE 5.—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>GUAM</b>									
Congressional District No. 1:									
Nonnetwork:									
Democrat: Pelt				\$489	\$323	\$614	\$536	\$364	\$614
Republican: Perez				3,694	2,020		3,694	2,020	
Nonnetwork total				4,143	2,343	614	4,330	2,384	614
<b>HAWAII</b>									
Congressional District No. 1:									
Nonnetwork:									
Democrat: Matsunaga	334	5	15	6,099	5,618		5,099	5,618	
Republican: Rohlfing	334	190	15	21,749	5,883		21,749	5,883	
Nonnetwork total	668	195	30	27,848	11,501		27,848	11,501	
Congressional District No. 2:									
Network:									
Democrat: Mink							1,427		
Network total							1,427		
Nonnetwork:									
Democrat: Mink	471	15		7,065	2,962		7,065	3,014	
Republican: Hansen	411	65		270	979		270	979	
Nonnetwork total	882	80		7,336	3,941		7,336	3,993	
Network and nonnetwork:									
Democrat: Mink				7,065	2,962		8,493	3,014	
Republican: Hansen				270	979		270	979	
Network and nonnetwork total				7,336	3,941		8,763	3,993	
<b>IOWA</b>									
Congressional District No. 1:									
Network:									
Democrat: Mazzlesky	1								
Network total	1								

<b>Nonnetwork:</b>									
Democrat: Mazusky	87	149		18,350	9,045	18,350	9,045		27,395
Republican: Schwengel	46	130		23,521	6,466	23,521	6,466		29,987
Other parties: Foster	86	110							
Nonnetwork total	218	389		41,871	15,511	41,871	15,511		57,382
<b>Network and nonnetwork:</b>									
Democrat: Mazusky				18,350	9,045	18,350	9,045		27,395
Republican: Schwengel				23,521	6,466	23,521	6,466		29,987
Other parties: Foster									
Network and nonnetwork total				41,871	15,511	41,871	15,511		57,382
<b>Congressional District No. 2:</b>									
<b>Nonnetwork:</b>									
Democrat: Culver	30	35	20	11,449	3,216	11,449	3,216	18	14,665
Republican: Ellsworth	30	139	20	7,719	5,199	7,719	5,225	18	12,942
Nonnetwork total	30	174	40	19,168	8,415	19,168	8,441	36	27,607
<b>Congressional District No. 3:</b>									
<b>Nonnetwork:</b>									
Democrat: Taylor	14	67		5,255	3,252	5,255	3,252		8,507
Republican: Gross		31		3,894	1,906	3,894	1,906		5,800
Nonnetwork total	14	98		9,149	5,256	9,149	5,258		14,307
<b>Congressional District No. 4:</b>									
<b>Nonnetwork:</b>									
Democrat: Smith	86	28		6,333	2,559	8,090	3,925		12,015
Republican: Kyl	94	29		11,083	6,419	11,382	6,419		17,801
Nonnetwork total	190	58		17,401	9,998	19,472	10,344		29,816
<b>Congressional District No. 5:</b>									
<b>Nonnetwork:</b>									
Democrat: Harkin	70	5		612	1,035	612	1,095		1,707
Republican: Scharle	70	5			4,940		4,940		4,940
Nonnetwork total	140	11		612	6,035	612	6,035		6,647
<b>Congressional District No. 6:</b>									
<b>Nonnetwork:</b>									
Democrat: Beidle	54	227		7,486	2,812	7,717	2,812		10,529
Republican: Wyrne	29	136		6,685	3,932	6,956	3,932		10,888
Nonnetwork total	83	365		14,181	5,864	14,673	5,864		20,537



Congressional District No. 3:				
Nonnetwork:				
Democrat: Coman	7			40
Republican: Harzaiah	4		40	
Nonnetwork total	11		40	40
Congressional District No. 4:				
Nonnetwork				
Republican: Derwinshi	15	30		
Nonnetwork total	15	30		
Congressional District No. 6:				
Nonnetwork				
Democrat: Galasso	120		100	100
Republican: Gallier	90		3,368	3,368
Nonnetwork total	210		3,468	3,468
Congressional District No. 7:				
Network:				
Democrat: Collins				1,427
Network total				1,427
Nonnetwork:				
Democrat: Collins	7			
Republican: Lento	7			
Nonnetwork total	14			
Network and nonnetwork:				
Democrat: Collins				1,427
Republican: Lento				1,427
Network and nonnetwork total				
Congressional District No. 8:				
Nonnetwork				
Democrat: Rostenkowski	130	10		
Nonnetwork total	130	10		
Congressional District No. 9:				
Nonnetwork				
Democrat: Yates	15		280	280
Republican: Pettigrew	15		242	242
Nonnetwork total	30		242	242
Nonnetwork total				522
Nonnetwork total				522

TABLE 5.—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
ILLINOIS—Continued										
Congressional District No. 10:										
Nonnetwork:										
Democrat: Mikva	60	89								
Republican: Young		89								
Nonnetwork total	60	178								
Congressional District No. 11:										
Nonnetwork:										
Democrat: Annunzio	5			\$50	\$792		\$50	\$792		\$842
Republican: Hoffman		60			40			40		40
Other parties: Campion		60								
Nonnetwork total	5	120		50	832		50	832		882
Congressional District No. 12:										
Network:										
Republican: Crane	14									
Network total	14									
Nonnetwork:										
Republican: Crane		15								
Nonnetwork total		15								
Network and nonnetwork:										
Republican: Crane										
Network and nonnetwork total										
Congressional District No. 13:										
Nonnetwork:										
Democrat: Beetham		445			2,114			3,028		3,028
Republican: McClary		235			2,760			2,760		2,760
Nonnetwork total		680			4,874			5,788		5,788
Congressional District No. 15:										
Nonnetwork:										
Democrat: Hall		126			741			780		780
Republican: Arends		80			1,401			1,401		1,401
Nonnetwork total		206			2,142			2,181		2,181

Voting Committee District No. 16.									
Nonnetwork:									
15	95								
257	217	4,842	2,032	4,842	2,032	4,842	2,032	4,842	2,032
Nonnetwork total									
272	312	4,842	2,032	4,842	2,032	4,842	2,032	4,842	2,032
Congressional District No. 17:									
Nonnetwork:									
	55								
	55		2,774		2,774		2,774		2,774
			2,866		2,866		2,866		2,866
Nonnetwork total									
	110		5,563		5,563		5,563		5,563
Congressional District No. 18:									
Nonnetwork:									
29									
29		1,909	1,390	1,909	1,390	1,909	1,390	1,909	1,390
Nonnetwork total									
58		1,909	1,390	1,909	1,390	1,909	1,390	1,909	1,390
Congressional District No. 19:									
Nonnetwork:									
130	163								
130	163		1		1		1		1
Nonnetwork total									
130	163		1		1		1		1
Congressional District No. 20:									
Nonnetwork:									
70	6								
70	6	4,404	971	4,404	971	4,404	971	4,404	971
		3,948	3,031	3,948	3,031	3,948	3,031	3,948	3,031
Nonnetwork total									
140	12	8,352	4,002	8,352	4,002	8,352	4,002	8,352	4,002
Congressional District No. 21:									
Nonnetwork:									
53	425								
61	385	8,091	799	10,716	799	10,716	799	10,716	799
		21,895	6,003	21,895	6,003	21,895	6,003	21,895	6,003
Nonnetwork total									
114	790	29,986	6,802	32,711	6,802	32,711	6,802	32,711	6,802
Congressional District No. 22:									
Nonnetwork:									
30	145								
88	169	5,389	2,094	5,389	2,094	5,389	2,094	5,389	2,094
33	306	4,057	3,182	4,057	3,182	4,057	3,182	4,057	3,182
			986		986		986		986
Nonnetwork total									
151	620	9,446	5,872	10,993	6,101	10,993	6,101	10,993	6,101



TABLE 5. U.S. REPRESENTATIVES 1972 GENERAL ELECTION POLITICAL BROADCASTING AND CABLECASTING Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
ILLINOIS Continued										
Congressional District No. 23										
Nonnetwork										
Democrat P. Ice	5	13	---	---	\$40	---	---	\$40	---	40
Republican Mays	28	27	---	---	---	---	---	---	---	---
Nonnetwork total	33	40	---	---	40	---	---	40	---	40
Congressional District No. 24										
Nonnetwork										
Democrat Gray	28	259	---	---	141	---	\$150	141	---	141
Other parties Muldoon	28	259	---	---	141	---	150	141	---	291
Nonnetwork total										
INDIANA										
Congressional District No. 1.										
Nonnetwork										
Democrat Madden	29	90	---	---	2 603	---	---	2 603	---	2 603
Republican Hafer	29	120	---	---	337	---	---	337	---	337
Nonnetwork total	58	210	---	---	2 940	---	---	2 940	---	2 940
Congressional District No. 2										
Nonnetwork										
Democrat Fithian	37	292	---	\$1 952	2 646	---	1 952	2 682	---	4 634
Republican Landgrebe	8	215	---	178	3 530	---	178	3 566	---	3 744
Nonnetwork total	45	507	---	2 130	6 176	---	2 130	6 248	---	8 378
Congressional District No. 3										
Nonnetwork										
Democrat Brademas	100	320	---	15 712	10 382	---	19 150	10 382	---	29 532
Republican Newman	227	---	---	6 164	4 053	---	6 580	4 170	---	10 750
Other parties Calvin	185	---	---	---	425	---	---	680	---	680
Nonnetwork total	512	320	---	21 876	14 860	---	25 730	15 232	---	40 962
Congressional District No. 4										
Nonnetwork										
Democrat Roush	45	132	---	16 209	10 297	---	17 309	10 297	---	27 606
Republican Bloom	45	130	---	18 595	9 544	---	18 970	9 544	---	28 514
Nonnetwork total	90	262	---	34 804	19 841	---	36 279	19 841	---	56 120

04-119	Democrat: Williams		23	160	15	519	519	519
	Republican: Hinds		22	90	15	7,873	7,873	7,873
	Nonnetwork total		45	250	30	8,392	8,392	8,392
73	Congressional District No. 6:							
	Nonnetwork							
	Democrat: Evans	7	60			1,076	1,076	1,076
	Republican: Bray	7	125			1,397	1,397	1,397
	Nonnetwork total		14	185		2,473	2,473	2,473
5	Congressional District No. 7:							
	Nonnetwork							
	Democrat: Henegar					1,427	1,427	1,427
	Network total					1,427	1,427	1,427
	Nonnetwork							
	Democrat: Henegar	72	115	29	3,170	1,999	1,395	4,565
	Republican: Myers	68	120		9,470	1,782	1,782	11,342
	Non-network total		140	235	29	12,640	3,177	15,907
	Network and nonnetwork:							
	Democrat: Henegar				3,170	1,395	1,395	5,992
	Republican: Myers				9,470	1,782	1,782	11,342
	Network and nonnetwork total				12,640	3,177	3,177	17,334
	Congressional District No. 8:							
	Nonnetwork							
	Democrat: Deen	43	35			156	156	156
	Republican: Zorn	58	385		3,019	4,174	4,174	7,831
	Nonnetwork total		101	420		4,330	4,330	7,987
	Congressional District No. 9:							
	Nonnetwork							
	Democrat: Hamilton	83	197	43		100	100	100
	Republican: Johnson	84	185	44		34	34	46
	Nonnetwork total		167	382	87	134	134	146
	Congressional District No. 10:							
	Nonnetwork							
	Democrat: Sharp	36	75	120		8,946	8,946	8,946
	Republican: Dennis	36	75	180		11,510	11,510	11,517
	Nonnetwork total		72	150	300	20,456	20,456	20,463

TABLE 5. U S REPRESENTATIVES 1972 GENERAL ELECTION—MULTI-MEDIA BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
INDIANA—Continued										
Congressional District No. 11.										
Nonnetwork										
Democrat Jacobs	117	172		\$12,894	\$5,337		\$18,054	\$5,337		\$23,391
Republican Hudnut	8	102		27,130	3,367		27,130	3,667		30,797
Nonnetwork total	125	274		40,024	8,704		45,184	9,004		54,188
KANSAS										
Congressional District No. 1:										
Nonnetwork										
Democrat Coover		7			2,531			2,531		2,531
Republican Sebellus										
Nonnetwork total		7			2,531			2,531		2,531
Congressional District No. 2:										
Nonnetwork										
Democrat Roy	147	242		18,560	10,699		18,560	10,699		29,259
Republican McAtee	87	241		11,219	5,129		12,031	5,129		17,160
Other parties:										
Falley	87	30		329	200		1,041	200		1,241
Scoggin	43	15								
Nonnetwork total	364	528		30,108	16,028		31,632	16,028		47,660
Congressional District No. 3:										
Nonnetwork										
Democrat Barsotti	30	15								
Republican Winn	30	29		2,793	2,624		2,793	2,624		5,417
Other parties Redding	30	14			30			30		39
Nonnetwork total	90	58		2,793	2,654		2,793	2,654		5,447
Congressional District No. 4:										
Nonnetwork										
Democrat Stevens	45	24		1,958	744		1,959	744		2,703
Republican Shriver	15	29		3,059	2,143		3,059	2,143		5,202
Nonnetwork total	60	53		5,018	2,887		5,018	2,937		7,905



TABLE 5—U.S. REPRESENTATIVES 1972 GENERAL ELECTION POLITICAL BROADCASTING AND CABLECASTING Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>KENTUCKY Continued</b>									
Congressional District No. 7									
Nonnetwork	45	70			\$985			\$1,273	\$1,282
Democrat Perkins					2,675		\$9	2,789	7,842
Republican Holcomb	45	145		\$1,035					
Nonnetwork total	90	215		3,035	3,660		5,052	4,072	9,124
<b>LOUISIANA</b>									
Congressional District No. 3									
Nonnetwork	5	103		22,778	6,017		22,778	6,017	28,795
Democrat Watkins				30,800	6,820		34,426	6,820	41,246
Republican Treen	27	220							
Nonnetwork total	32	323		53,578	12,837		57,204	12,837	70,041
Congressional District No. 5-									
Nonnetwork					1,195			1,195	1,195
Democrat Brown					1,195			1,195	1,195
Nonnetwork total									
Congressional District No. 6-									
Nonnetwork					165			165	165
Democrat Rancie					165			165	165
Nonnetwork total									
Congressional District No. 7:									
Nonnetwork				1,178	215		1,178	215	1,393
Democrat Breaux				1,178	215		1,178	215	1,393
Nonnetwork total									
Congressional District No. 8:									
Nonnetwork					1,594			1,594	1,594
Democrat Long					2,002		4,779	2,002	6,781
Republican Stuckland	23			4,689					
Other parties Abramson									
Nonnetwork total	46			4,689	3,596		4,779	3,596	8,375

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Congressional District No. 2.

Nonnetwork:  
Democrat: Boland

22

Nonnetwork total

22

Congressional District No. 4:

Network:  
Democrat: Drinan

22

Network total

22

Nonnetwork:

Democrat: Drinan  
Republican: Linsky

59

253

19,463

14,463

71,663

14,463

5,537

27,200

41,663

Nonnetwork total

118

585

19,463

20,000

21,663

20,000

20,000

20,000

43,890

Network and nonnetwork:

Democrat: Drinan  
Republican: Linsky

59

253

19,463

14,463

71,663

14,463

5,537

27,200

15,899

Network and nonnetwork total

118

585

19,463

20,000

23,090

20,000

20,000

20,000

43,890

Congressional District No. 5:

Network:  
Democrat: Kerry

22

22

1,427

1,427

1,427

1,427

1,427

1,427

1,427

Network total

22

22

1,427

1,427

1,427

1,427

1,427

1,427

1,427

Nonnetwork:

Democrat: Kerry  
Republican: Cronin  
Other parties:  
Collins  
Durkin

32

33

32

73

13

150

282

20,531

20,903

Nonnetwork total

32

33

32

73

13

150

282

20,531

20,903

Network and nonnetwork:

Democrat: Kerry  
Republican: Cronin  
Other parties:  
Collins  
Durkin

32

33

32

73

13

150

282

20,531

20,903

Network total

32

33

32

73

13

150

282

20,531

20,903

Network and nonnetwork:

Democrat: Kerry  
Republican: Cronin  
Other parties:  
Collins  
Durkin

32

33

32

73

13

150

282

20,531

20,903

Network total

32

33

32

73

13

150

282

20,531

20,903

TABLE 5.—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
MASSACHUSETTS—Continued										
Congressional District No. 6:										
Network:										
Democrat: Harrington.....	10						\$1,784			\$1,784
Network total.....	10						1,784			1,784
Nonnetwork:										
Democrat: Harrington.....	64	43			57,502			7,502		7,502
Republican: Mosely.....	83	43			6,281			6,281		6,281
Nonnetwork total.....	147	86			13,783			13,783		13,783
Network and nonnetwork:										
Democrat: Harrington.....					7,502		1,784	7,502		9,286
Republican: Mosely.....					6,281			6,281		6,281
Network and nonnetwork total.....					13,783		1,784	13,783		15,567
Congressional District No. 7:										
Nonnetwork:										
Democrat: MacDonald.....	6	30								
Republican: Alford.....	9	30			815			815		815
Nonnetwork total.....	15	60			815			815		815
Congressional District No. 8:										
Nonnetwork:										
Other parties: Powers.....	4									
Nonnetwork total.....	4									
Congressional District No. 9:										
Nonnetwork:										
Democrat: Hicks.....	94	73			5,078			5,078		5,078
Republican: Miller.....	80	73			2,028			2,028		2,028
Other parties:										
Lafferty.....	94	73								
Mosley.....	92	73			13,456			13,456		13,456
Nonnetwork total.....	360	292			20,562			20,562		20,562





TABLE 5 —U.S. REPRESENTATIVES- 1972 GENERAL ELECTION POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
MARYLAND—Continued										
Congressional District No. 6										
Nonnetwork	58	165	70	\$2,349	\$4,595		\$2,349	\$4,633		\$6,982
Democrat Syron	61	268	85		5,628		700	5,628		6,328
Republican Mason										
Nonnetwork total	119	433	155	2,349	10,223		3,049	10,261		13,310
Congressional District No. 7										
Network										
Democrat Mitchell							1,427			1,427
Nonnetwork total							1,427			1,427
Congressional District No. 8										
Nonnetwork	84	42								
Democrat Mitchell	85	38								
Republican Adair										
Nonnetwork total	169	80								
Network and Nonnetwork										
Democrat Mitchell							1,427			1,427
Republican Adair										
Nonnetwork and nonnetwork total							1,427			1,427
Congressional District No. 9										
Nonnetwork	88	121		2,420	7,550		2,420	7,550		9,970
Democrat Anastas	88	123			8,560			8,560		8,560
Republican Gude										
Nonnetwork total	176	244		2,420	16,110		2,420	16,110		18,530
MAINE										
Congressional District No. 1										
Network										
Democrat Kyros							713			713
Nonnetwork total							713			713



TABLE 5. U.S. REPRESENTATIVES 1972 GENERAL ELECTION - POLITICAL BROADCASTING AND CABLECASTING Continued

	Free time in minutes			Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>MICHIGAN -Continued</b>											
<b>Congressional District No. 5:</b>											
Nonnetwork											
Democrat McKee	40			\$3,505	\$718			\$3,505	\$718		\$4,223
Republican Ford	70	30		3,778	3,969			8,134	3,969		12,103
Other parties:											
Girard	25										
Hassellink	5	5									
Johnson	25										
Maki	20				236				236		236
Nonnetwork total	185	35		7,283	4,923			11,639	4,923		16,562
<b>Congressional District No. 6:</b>											
Nonnetwork											
Democrat Carr	14	70		7,022	3,807			7,170	3,807		10,977
Republican Chamberlain	14	70		3,446	4,364			4,163	4,364		8,527
Nonnetwork total	28	140		10,468	8,171			11,333	8,171		19,504
<b>Congressional District No. 7:</b>											
Network											
Republican Riegler	20							713			713
Network total	20							713			713
<b>Nonnetwork</b>											
Democrat Mattison	37				20				20		20
Republican Riegler	198	85	30		2,619				2,619		2,619
Nonnetwork total	235	85	30		2,639				2,639		2,639
<b>Network and nonnetwork:</b>											
Democrat Mattison					20				20		20
Republican Riegler					2,619			713	2,619		3,332
Network and nonnetwork total					2,639			713	2,639		3,362

Continued District No. 8:



TABLE 5. U.S. REPRESENTATIVES 1972 GENERAL ELECTION POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Total
MICHIGAN—Continued									
Congressional District No. 17									
Nonnetwork									
Democrat Griffiths	196	7			\$63			\$63	\$63
Other parties George	14								
Nonnetwork total	210	7			63			63	68
Congressional District No. 18									
Nonnetwork									
Democrat Cooper					2,943			2,943	2,943
Republican Huber					1,806			1,806	1,806
Nonnetwork total					4,749			4,749	4,749
Congressional District No. 19									
Nonnetwork									
Democrat Montgomery	14	90							
Republican Bloomfield	18								
Nonnetwork total	32	90							
MINNESOTA									
Congressional District No. 1.									
Nonnetwork									
Democrat Thompson		5			41			41	41
Republican Quib		20		1,014	1,477		1,014	1,517	2,531
Nonnetwork total		25		1,014	1,518		1,014	1,558	2,572
Congressional District No. 2									
Nonnetwork									
Democrat Turnbull		125		292	3,022		292	3,139	3,431
Republican Nelson		45		2,669	2,703		2,719	2,710	5,429
Nonnetwork total		170		2,961	5,725		3,011	5,849	8,860
Congressional District No. 3									
Nonnetwork									
Democrat Bell									

Congressional District No. 4:									
Nonnetwork:									
Democrat: Kurb	15	30	8,082	8,082	8,082	8,082	8,082	8,082	8,082
Republican: Thompson	15	40	1,433	1,433	1,433	1,433	1,433	1,433	1,433
Nonnetwork total	30	70	10,125	10,125	10,207	10,207	10,207	10,207	10,207
Congressional District No. 5:									
Network:									
Democrat: Fraser					713	713	713	713	713
Network total					713	713	713	713	713
Nonnetwork:									
Democrat: Fraser	43	50							
Republican: Davisson	28	34	366	366	366	366	366	366	366
Other parties:									
Peterson	8	9							
Selby	28	10	301	301	301	301	301	301	301
Nonnetwork total	107	103	697	697	697	697	697	697	697
Network and nonnetwork total:									
			697	697	713	697	697	713	1,410
Congressional District No. 6:									
Nonnetwork:									
Democrat: Nolan	531		6,128	6,128	4,086	6,128	6,128	6,128	10,214
Republican: Zwick	385		6,305	6,305	5,071	6,453	6,453	6,453	11,524
Nonnetwork total	916		12,433	12,433	9,157	12,581	12,581	12,581	21,738
Congressional District No. 7:									
Nonnetwork:									
Democrat: Baigland	57	347	20	14,386	14,386	7,436	7,436	7,436	21,822
Republican: Haaven	56	385	20	9,186	10,173	5,701	5,701	5,701	15,874
Nonnetwork total	113	732	40	23,572	24,559	13,137	13,137	13,137	37,696
Congressional District No. 8:									
Nonnetwork:									
Democrat: Blatnik	28			961	1,097	961	1,097	1,097	2,058
Republican: Johnson	28								
Nonnetwork total	56			961	1,097	961	1,097	1,097	2,058

TABLE 5.—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING Continued

	Free time in minutes			Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>MISSOURI</b>											
Congressional District No. 1:											
Network:											
Democrat, Clay								\$1,427			\$1,427
Network total								1,427			1,427
Nonnetwork:											
Democrat, Clay	58	68				7,520			7,520		7,520
Republican, Funsch	50	68		3,043		12,658		3,043	12,703		15,746
Nonnetwork total	108	136		3,043		20,178		3,043	20,223		23,266
Network and nonnetwork:											
Democrat, Clay						7,520		1,427	7,520		8,947
Republican, Funsch				3,043		12,658		3,043	12,703		15,746
Network and nonnetwork total				3,043		20,178		4,470	20,223		24,693
Congressional District No. 2:											
Nonnetwork:											
Democrat, Symington	5	46		12,285		7,005		12,285	7,005		19,290
Republican, Cooper	5	30				4,563			4,563		4,563
Nonnetwork total	10	76		12,285		11,568		12,285	11,568		23,853
Congressional District No. 3:											
Nonnetwork:											
Democrat, Sullivan	5	10									
Republican, Holst	5	10									
Other parties, Byford		13									
Nonnetwork total	10	33									
Congressional District No. 4:											
Nonnetwork:											
Democrat, Benda	20	15									
Nonnetwork total	20	15									
Nonnetwork total											
Democrat, Benda											
Nonnetwork total											

Nonnetwork:									
Democrat:									
Bolling:	39	57	6,919	3,677	7,299	3,677			10,978
Solares:	30	57		252		252			252
Republican: Rice	30	22	540		906				906
Other parties: Solares:									
Nonnetwork total:	99	143	7,459	3,929	8,199	3,929			12,128
Congressional District No. 6:									
Nonnetwork:									
Democrat: Libon:	30	118	18,502	5,193	24,593	5,193			29,776
Republican: Sloan:	30	253	13,091	2,961	13,796	3,067			16,123
Nonnetwork total:	60	731	31,593	8,154	38,339	8,260			46,599
Congressional District No. 7:									
Nonnetwork:									
Democrat: Thomas:		48	1,410	1,382	1,410	1,382			2,792
Republican: Taylor:		18	9,481	3,086	10,253	3,086			13,339
Nonnetwork total:		58	10,891	4,468	11,663	4,468			16,131
Congressional District No. 8:									
Nonnetwork:									
Democrat: Icard:	5	134	2,763	1,773	2,763	1,773			4,536
Republican: Countie:	5	162		587		587			587
Nonnetwork total:	10	236	2,763	2,360	2,763	2,360			7,123
Congressional District No. 9:									
Nonnetwork:									
Democrat: Hingate:	5	11	4,732	2,342	4,732	2,442			7,174
Republican: Prange:	5	6	1,102	2,401	1,102	2,401			3,583
Nonnetwork total:	10	17	5,834	4,743	5,834	4,843			10,677
Congressional District No. 10:									
Nonnetwork:									
Democrat: Burlison:	5	57	609	252	799	252			1,011
Republican: Svendrowski:	5	57							
Nonnetwork total:	10	114	609	252	799	252			1,011

\*\*Ran as an independent candidate.





94-449-73-0

Nonnetwork	90	257	40	6,932	3,217	6,977	3,217	10,194
Democrat Olsen	50	440	45	9,350	4,579	9,350	4,579	13,929
Republican Shoup								
Nonnetwork total	180	697	85	16,282	7,796	16,327	7,796	24,123
Congressional District No. 2								
Nonnetwork	1							
Democrat Melcher	1							
Network total	1							
Nonnetwork								
Democrat Melcher	2	102		8,291	1,956	8,291	1,956	10,247
Republican Forester		156	4		838		838	838
Nonnetwork total	2	258	4	8,291	2,794	8,291	2,794	11,085
Network and nonnetwork								
Democrat Melcher				8,291	1,956	8,291	1,956	10,247
Republican Forester					838		838	838
Network and nonnetwork total				8,291	2,794	8,291	2,794	11,085
NORTH CAROLINA								
Congressional District No. 1								
Nonnetwork								
Democrat Jones	36	49		1,594	1,403	1,684	1,403	3,087
Republican Bonner	56	68		3,099	1,924	3,099	1,924	5,023
Nonnetwork total	92	117		4,693	3,327	4,783	3,327	8,110
Congressional District No. 2								
Nonnetwork								
Democrat Foundation	27	15			51		51	51
Republican Little	27	37		378	321	378	501	879
Nonnetwork total	54	52		378	372	378	552	930
Congressional District No. 3								
Nonnetwork	25							
Democrat Henderson	25							
Nonnetwork total								

TABLE 5.—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>NORTH CAROLINA—Continued</b>									
<b>Congressional District No. 4:</b>									
Nonnetwork work:									
Democrat: Andrews	3	205		\$13,931	\$2,693		\$13,931	\$2,693	
Republican: Hawkins	3	190		17,031	3,219		17,031	3,236	
Nonnetwork total	6	395		30,962	5,912		30,962	5,929	
<b>Congressional District No. 5:</b>									
Nonnetwork:									
Democrat: Hayes	38	64		2,250	3,985		2,250	4,041	
Republican: Mizell	35	195		5,526	1,945		5,526	1,945	
Nonnetwork total	73	259		7,776	5,930		7,776	5,986	
<b>Congressional District 6:</b>									
Network:									
Democrat: Prager							713		
Network total							713		
<b>Congressional District No. 7:</b>									
Nonnetwork:									
Democrat: Prager	12	10			1,968			1,968	
Other parties: Bullock	2	43							
Nonnetwork total	14	53			1,968			1,968	
<b>Network and nonnetwork:</b>									
Democrat: Prager					1,968		713	1,968	
Other parties: Bullock									
Network and nonnetwork total					1,968		713	1,968	
<b>Congressional District No. 7:</b>									
Nonnetwork:									
Democrat: Bass	8	68	30	3,551	994		3,945	994	
Republican: Scott	8	68		4,643	222		4,643	222	
Other parties: Bullock		45	30						

Nonnetwork total.....	24	165	60	8,194	816	8,508	816	9,404
Congressional District No. 8:								
Nonnetwork:								
Democrat: Clark.....	17	49		7,200	2,782	7,200	2,874	10,074
Republican: Ruth.....	17	27			2,395		2,395	2,395
Nonnetwork total.....	34	76		7,200	5,157	7,200	5,289	
Congressional District No. 9:								
Nonnetwork:								
Democrat: Beatty.....	14	163		14,550	314	14,550	314	14,864
Republican: Martin.....	42	213		20,085	3,941	20,380	3,941	24,301
Nonnetwork total.....	56	376		34,635	4,255	34,910	4,225	39,165
Congressional District No. 10:								
Nonnetwork:								
Republican: Broyhill.....				1,695	1,878	1,695	1,878	3,573
Nonnetwork total.....				1,695	1,878	1,695	1,878	3,573
Congressional District No. 11:								
Nonnetwork:								
Democrat: Taylor.....		12		2,908	2,330	2,900	2,330	5,230
Republican: Ledbetter.....	6	37		2,745	2,204	2,745	2,204	4,949
Nonnetwork total.....	6	49		5,645	4,534	5,645	4,534	10,179
NORTH DAKOTA								
Congressional District No. 1:								
Nonnetwork:								
Democrat: Ista.....						1,427		1,427
Nonnetwork total.....						1,427		1,427
Nonnetwork:								
Democrat: Ista.....	96	105		2,699		2,699		2,699
Republican: Andrews.....	96	180		15,634	4,106	17,341	4,106	21,447
Nonnetwork total.....	192	285		18,333	4,106	20,040	4,106	24,146
Network and nonnetwork:								
Democrat: Ista.....				2,699		4,128		4,128
Republican: Andrews.....				15,634	4,106	17,341	4,106	21,447
Nonnetwork and nonnetwork total.....				18,333	4,106	21,467	4,106	25,573



Republican Wyman	18	300	536	1,276	1,612
Nonnetwork total	37	638	536	1,408	1,944
Congressional District No. 2					
Network					
Democrat Officer					
Network total			2,140		2,140
Nonnetwork					
Democrat Officer	19	354		7,083	7,083
Republican Cleveland	19	404	530	2,537	3,067
Nonnetwork total	38	758	530	9,620	10,150
Network and nonnetwork					
Democrat Officer					
Republican Cleveland			530	2,140	2,670
Nonnetwork total			530	2,670	3,200
Network and nonnetwork total			530	9,620	12,290
NEW JERSEY					
Congressional District No. 1					
Nonnetwork					
Democrat Fiorio	7		2,670		2,670
Republican Hunt					
Other parties					
Duganero D	6			1,305	1,305
Hoozenraad	4				
Miller	7				
Nonnetwork total	24		2,670	1,305	3,975
Congressional District No. 2					
Nonnetwork					
Democrat Rose	69	30		50	50
Republican Sandman	94	30		412	412
Nonnetwork total	163	60		462	462
Congressional District No. 3					
Nonnetwork					
Democrat Howard	91			4,847	4,847
Republican Dowd	91			2,540	2,627
Nonnetwork total	182			7,387	7,474

TABLE 5.—U.S. REPRESENTATIVES 1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
NEW JERSEY—Continued										
Congressional District No. 4:										
Network	4									
Democrat Thompson										
Network total	4									
Nonnetwork										
Democrat Thompson		160			\$6,000			\$6,000		\$6,000
Republican Garibaldi		160								
Network										
Nonnetwork total		320			6,000			6,000		6,000
Network and nonnetwork										
Democrat Thompson					6,000			6,000		6,000
Republican Garibaldi										
Network and nonnetwork total					6,000			6,000		6,000
Congressional District No. 5										
Network										
Democrat Bowen	10						1,427			1,427
Republican Frelinghuysen										
Network total	10						1,427			1,427
Nonnetwork										
Democrat Bowen	27	92			4,459			4,459		4,459
Republican Frelinghuysen	15	39			4,852			4,852		4,852
Nonnetwork total	42	131			9,311			9,311		9,311
Network and nonnetwork										
Democrat Bowen					4,459		1,427	4,459		5,886
Republican Frelinghuysen					4,852			4,852		4,852
Network and nonnetwork total					9,311		1,427	9,311		10,738
Congressional District No. 6										
Network	6	77								
Democrat Brennan					435			435		435
Republican Foremyre					2,298			2,298		2,298

<b>Other parties:</b>									
Dugnier, B.	8	58							
Ebert	8	69	37	37	2,770	2,770	37	37	37
<b>Nonnetwork total</b>									
<b>Congressional District No. 7:</b>									
<b>Nonnetwork:</b>									
Democrat: Leemann	28	13	15						
Republican: Widnall	20	11			1,269			1,269	1,269
Other parties: Wendelken	20	13	15						
<b>Nonnetwork total</b>									
	60	37	30		1,269			1,269	1,269
<b>Congressional District No. 8:</b>									
<b>Nonnetwork:</b>									
Democrat: Roe			15						
Republican: Johnson		2	15			980	284	980	284
<b>Nonnetwork total</b>									
		2	30			980	284	980	284
<b>Congressional District No. 9:</b>									
<b>Nonnetwork:</b>									
Democrat: Helbroski	45	56							
Republican: Schaffo	35	14				914	40	914	40
<b>Nonnetwork total</b>									
	80	70				914	40	914	40
<b>Congressional District No. 10:</b>									
<b>Nonnetwork:</b>									
Democrat: Rodino		7							
Republican: Miller		7				2,471		2,471	2,471
<b>Nonnetwork total</b>									
		14				2,471		2,471	2,471
<b>Congressional District No. 11:</b>									
<b>Nonnetwork:</b>									
Democrat: Minish									
Republican: Waldor						401		401	401
Other parties: Klimash		2				1,227		1,227	1,227
<b>Nonnetwork total</b>									
		2				1,628		1,628	1,628
<b>Congressional District No. 12:</b>									
<b>Nonnetwork:</b>									
Democrat: English	42	76	60						
Republican: Rinaldo		76				1,172		1,172	1,172
Other parties: Bogus	12					585		585	585
<b>Nonnetwork total</b>									
	54	152	60			1,757		1,757	1,757



TABLE 5. U.S. REPRESENTATIVES 1972 GENERAL ELECTION POLITICAL BROADCASTING AND CABLECASTING- Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Teletext	Radio	Cable television	Television	Radio	Cable television	Television	Cable television	Total
<b>NEW JERSEY- Continued</b>									
Congressional District No. 13									
Nonnetwork									
Democrat Meyer	55	90			\$4,035				\$4,035
Republican Marzilli	59	90			2,374				2,374
Other parties Gallop	65	80	15		503				503
Nonnetwork total	199	240	15		7,112				7,112
Congressional District No. 14									
Nonnetwork									
Other parties		2							
Corrino		2			299				299
Zampella									
Nonnetwork total		4			299				299
Congressional District No. 15									
Nonnetwork									
Democrat Patten		285			1,900				1,900
Republican Brooks		285			7,349				7,349
Nonnetwork total		570			9,249				9,249
<b>NEW MEXICO</b>									
Congressional District No. 1									
Nonnetwork									
Democrat Gallegos							1,427		1,427
Democrat Gallegos							1,427		1,427
Nonnetwork total									
Network									
Democrat Gallegos	43	380		13,257	4,944		13,818	5,014	18,832
Republican Lujan	48	377		6,943	7,222		7,408	7,222	14,630
Nonnetwork total	91	758		20,200	12,166		21,226	12,236	33,462
Network and non-network									
Democrat Gallegos				13,757	4,944		15,245	5,014	20,759
Democrat Gallegos							7,408	7,222	14,630
Republican Lujan				13,257	7,222				



TABLE 5. U.S. REPRESENTATIVES 1972 GENERAL ELECTION POLITICAL BROADCASTING AND CABLECASTING Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
NEW YORK—Continued										
Congressional District No. 4										
Nonnetwork										
Democrat Horowitz	28	4			\$1,524			\$1,524		\$1,524
Republican Lent	28	258			1,367			1,367		1,367
Other parties Schein...		4								
Nonnetwork total	56	266			2,891			2,891		2,891
Congressional District No. 5										
Nonnetwork										
Democrat Slackler	13	2								
Republican Wyder	13	4			1,030			1,030		1,030
Other parties										
Garza	6	6								
Harper	13	4								
Nonnetwork total	45	16			1,030			1,030		1,030
Congressional District No. 6:										
Nonnetwork										
Democrat Wolf	73	6			9,030			9,030		9,030
Republican Gallagher	73	6								
No network total	146	12			9,030			9,030		9,030
Congressional District No. 7:										
Nonnetwork										
Democrat Addabbo		2		126			126			126
Republican Hall										
Nonnetwork total		2		126			126			126
Congressional District No. 8:										
Nonnetwork										
Democrat Rosenthal...							1,427			1,427
Network total							1,427			1,427

Nonnetwork:					
Democrat: Rosenthal	100	40	135	170	170
Republican: La Pina		2			
Nonnetwork total	100	42	135	170	170
Network and nonnetwork:					
Democrat: Rosenthal			120	1,444	1,444
Republican: La Pina					
Network and nonnetwork total			120	1,444	1,444
Congressional District No. 9:					
Nonnetwork:		2			
Other parties: Gressley		2			
Nonnetwork total		2			
Congressional District No. 10:					
Nonnetwork:					
Democrat: Biaggi		57			
Other parties: Bank		73			
Nonnetwork total		130			
Congressional District No. 11:					
Nonnetwork:					
Democrat: Brasco			170	170	170
Other parties: Levine					
Nonnetwork total			170	170	170
Congressional District No. 12:					
Nonnetwork:					
Democrat: Chabod			170	170	170
Other parties:					
Hammons		2			
Shepherd		2			
Nonnetwork total		4	170	170	170
Congressional District No. 13:					
Nonnetwork:					
Democrat: Papp		15	130	145	145
Other parties:		2			
Nonnetwork total		17	130	145	145

TABLE 5 U.S. REPRESENTATIVES 1972 GENERAL ELECTION POLITICAL BROADCASTING AND CABLECASTING Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
NEW YORK Continued									
Congressional District No. 14									
Network									
Democrat Lowenstein*							\$1,427		\$1,427
Network total							1,427		1,427
Nonnetwork									
Democrat Lowenstein*		45							
Republican Voitchky		2		126	2,223			2,315	
Other parties Mendietta		2							
Nonnetwork total		49		126	2,223		126	2,315	
Nonnetwork total									2,441
Network and nonnetwork:									
Democrat Lowenstein*							1,427		1,427
Republican Voitchky				126	2,223		126	2,315	
Other parties Mendietta									
Network and nonnetwork, total				126	2,223		1,553	2,315	3,868
Congressional District No. 15									
Nonnetwork									
Democrat Carey	8			126	960		126	960	1,086
Republican Gangemi					462			462	
Other parties									
Jones	8				477			477	
Saks									
Nonnetwork, total	16			126	1,899		126	1,899	
Nonnetwork, total									2,025
Congressional District No. 16									
Network	1						1,427		1,427
Democrat Hollzman									
Network, total	1						1,427		1,427



TABLE 2.—U.S. REPRESENTATIVES: 1972 GENERAL ELECTION—POLITICAL BREAKDOWN

	Free time in minutes			Charges for announcements			Total charges		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Television
<b>NEW YORK Continued</b>									
Congressional District No. 19									
Network									
Democrat: Rangel							\$2,140		\$2,140
Nonnetwork, total							2,140		2,140
Nonnetwork:									
Democrat: Rangel			29	126			126		126
Other parties:					903			903	903
Stevens		2							
Washington									
Nonnetwork, total		2	29	126	903		126	903	1,029
Network and nonnetwork									
Democrat: Rangel				126			2,266		2,266
Other parties:					903			903	903
Stevens									
Washington									
Network and nonnetwork total				126	903		2,266	903	3,169
Congressional District No. 20									
Network									
Democrat: Abzug	3								
Nonnetwork, total	3								
Nonnetwork:									
Democrat: Abzug	109	142	44	126	4,522		126	4,522	4,648
Republican: Levy	24	97	15						
Other parties:			44						
Michelman	24	127							
Wise	24	122							
Ryan	42	127	15		1,041			1,041	1,041
Nonnetwork total	223	523	74	126	5,563		126	5,563	5,689

Network and nonnetwork:						
Democrat: Abzug.....	126	4,522	126	4,522	4,648	
Republican: Levy.....						
Other parties:						
Michelman.....		1,041		1,041	1,041	
Minsk.....						
Rysa.....						
Network and nonnetwork total.....	126	5,563	126	5,563	5,689	
Congressional District No. 21:						
Nonnetwork:	110	40	126	2,576	2,702	
Democrat: Badillo.....		2				
Other parties: Immediate.....						
Nonnetwork total.....	110	42	126	2,576	2,702	
Congressional District No. 22:						
Network:						
Democrat: Bingham.....			1,427	1,427	1,427	
Network total.....			1,427	1,427	1,427	
Nonnetwork:						
Democrat: Bingham.....		15	126	126	126	
Republican: Averello.....		2				
Other parties: Smith.....			201	201	201	
Nonnetwork total.....		17	126	201	327	
Network and nonnetwork:						
Democrat: Bingham.....				1,553	1,553	
Republican: Averello.....						
Other parties: Smith.....				201	201	
Network and nonnetwork total.....			126	1,553	1,754	
Congressional District No. 23:						
Nonnetwork:	94	157		11,642	11,642	
Democrat: Ottinger.....	94	165		5,622	5,622	
Republican: Peyser.....						
Nonnetwork total.....	188	322		17,264	17,264	
Congressional District No. 24:						
Nonnetwork:	228	35	19,515	9,582	29,107	
Democrat: Reid.....	240	57		6,642	6,642	
Republican: Vargan.....						
Nonnetwork total.....	468	92	19,515	16,224	35,749	



TABLE 5. U.S. REPRESENTATIVES 1972 GENERAL ELECTION POLITICAL BROADCASTING AND CABLECASTING Continued

	Free time in minutes			Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>NEW YORK Continued</b>											
<b>Congressional District No. 25</b>											
Nonnetwork											
Democrat Burns		846			\$2,540				\$2,695		\$2,695
Republican Fish		402			1,703				1,703		1,703
Nonnetwork total		1,248			4,243				4,398		4,398
<b>Congressional District No. 26</b>											
Nonnetwork											
Democrat Dow		391	40		5,723	640			5,960	640	7,600
Republican Glimm		342	264		3,837	564			3,837	564	4,401
Other parties Rapkin		279	152		2,082				2,082		2,082
Nonnetwork total		1,012	456		12,642	1,204			12,879	1,204	14,083
<b>Congressional District No. 27</b>											
Nonnetwork											
Democrat Blazer		66			489				489		489
Republican Robison		66									
Other parties		16	15		22				22		22
O'Neill		22									
Osby											
Nonnetwork total		170	15		511				511		511
<b>Congressional District No. 28</b>											
Nonnetwork											
Democrat Stratto	70	116		1,759	1,470			1,759	1,470		3,229
Republican Ryan	59	66									
Nonnetwork total	129	182		1,759	1,470			1,759	1,470		3,229
<b>Congressional District No. 29</b>											
Nonnetwork											
Democrat Gordon	40	35			223				223		223
Republican King	20			648				648			3,274
Nonnetwork total	60	70			1,100			648	2,649		3,497

Congressional District No. 31:

Nonnetwork	118	687	3,434	984	3,085	984	4,080
Democrat: Canale	68	243	1,380	1,755	1,852	1,755	3,077
Republican: Macdon							
Other parties:							
Nonnetwork total	174	475	4,754	2,688	5,038	2,688	7,727

Congressional District No. 32:

Nonnetwork	33	1,016	6,711	8,953	8,711	8,985	15,087
Democrat: Canale	33	731	10,147	2,405	10,147	2,405	13,553
Republican: Mitchell							
Other parties:							
Nonnetwork total	132	2,494	18,413	13,564	18,413	13,567	32,019

Congressional District No. 33:

Nonnetwork	52	245	14,772	3,422	14,772	3,382	18,154
Democrat: Hasley	40	147	16,675	5,004	16,675	5,106	21,781
Republican: Koldin							
Other parties:							
Nonnetwork total	92	392	31,447	8,076	31,447	8,441	39,888

Congressional District No. 34:

Nonnetwork	52	292	4,041	4,894	4,041	4,894	8,935
Democrat: Kadya	42	274	6,072	3,740	6,072	3,740	9,812
Republican: Walsh							
Other parties:							
Nonnetwork total	94	766	10,113	8,634	10,113	8,634	18,747

Congressional District No. 35:

Nonnetwork	17	40	2,630	435	2,630	435	3,065
Democrat: Rubens	15	8	2,580	2,388	2,580	2,388	4,968
Republican: Horton							
Other parties:							
Nonnetwork total	92	128	5,210	3,023	5,210	3,023	8,233

Congressional District No. 36:

Nonnetwork	45	95		1,738		1,738	1,738
Democrat: Spencer	45	95		3,755		3,755	3,755
Republican: Canale							
Other parties: Brennan							
Nonnetwork total	105	105		5,493		5,493	5,493



Congressional District No. 2:									
Nonnetwork:									
Democrat: Manos:	14	290	1,092	2,000	1,099	2,000	1,099	2,000	3,000
Republican: Clancy	14	24	4,285	1,761	4,285	1,761	4,285	1,761	5,025
Nonnetwork total	28	304	5,325	3,761	5,325	3,761	5,325	3,761	8,025
Congressional District No. 3:									
Nonnetwork:									
Democrat: Lilek	8	3							
Republican: Whalen	110	18	3,832	2,654	3,832	2,654	3,832	2,654	6,486
Nonnetwork total	118	21	3,832	2,654	3,832	2,654	3,832	2,654	6,486
Congressional District No. 4:									
Nonnetwork:									
Democrat: Nicholas	2	205	601	3,187					4,200
Republican: Guyer	2	230	1,014	2,886					3,900
Nonnetwork total	4	435	1,615	6,073					8,100
Congressional District No. 5:									
Nonnetwork:									
Democrat: Edwards	18			247					247
Republican: Letts	8			1,968					1,968
Nonnetwork total	26			2,215					2,215
Congressional District No. 7:									
Nonnetwork:									
Democrat: Brown		165		575					575
Other parties: Frank		158		37					37
Nonnetwork total		323		612					612
Congressional District No. 8:									
Nonnetwork:									
Democrat: Ruppert	8	259	14,701	1,553					16,718
Republican: Powell		45		15					15
Nonnetwork total	8	304	14,701	1,568					16,733
Congressional District No. 9:									
Nonnetwork:									
Democrat: Ashley		60		2,825					2,825
Republican: Richards	10	240	977	5,020					5,997
Nonnetwork total	12	300	977	7,845					8,822

TABLE 5.—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Cable television	Total
<b>OHIO—Continued</b>									
<b>Congressional District No. 10:</b>									
Nonnetwork:									
Democrat: Whalley	15	111	88	\$259	\$771		\$259	\$771	\$771
Republican: Miller	15	82			831			831	1,060
Nonnetwork total	30	193	88	259	1,602		259	1,602	1,861
<b>Congressional District No. 11:</b>									
Nonnetwork:									
Democrat: Callahan	3	40			559			559	559
Republican: Stanton		72			1,023			1,023	1,023
Nonnetwork total	3	112			1,582			1,582	1,582
<b>Congressional District No. 12:</b>									
Nonnetwork:									
Democrat: Goodrich	7	45		18,735	10,485		18,735	10,485	29,220
Republican: Devine	7	15		11,178	3,199		13,358	3,199	16,557
Nonnetwork total	14	60		29,913	13,684		32,093	13,684	45,777
<b>Congressional District No. 13:</b>									
Nonnetwork:									
Democrat: Ryan	3	16			726			726	726
Republican: Mosher		30			1,247	74		1,247	1,321
Nonnetwork total	3	46			1,973	74		1,973	2,047
<b>Congressional District No. 14:</b>									
Nonnetwork:									
Democrat: Seiberling	19	8			1,960			1,960	1,960
Republican: Holt	19	8			312			312	312
Nonnetwork total	38	16			2,272			2,272	2,272
<b>Congressional District No. 15:</b>									
Nonnetwork:									
Nonnetwork total									

Republican: Wolfe	7	16	10,725	4,481	10,725	3,467	1,100
Other parties: Price	3	16					
Nonnetwork total	10	45	10,725	3,747	10,725	3,747	16,972
Congressional District No. 16:							
Nonnetwork:							
Democrat: Musser	14	64		2,190		2,190	2,190
Republican: Regula	15	64	1,250	5,071	1,250	5,754	6,974
Other parties:							
Nonnetwork total	29	128	1,250	7,861	1,250	7,914	9,164
Congressional District No. 17:							
Nonnetwork:							
Democrat: Beck		29		1,051		1,051	1,051
Republican: Ashbrook		31		366		366	366
Other parties: Simpson		15		117		328	328
Nonnetwork total		75		1,534		1,745	1,745
Congressional District No. 18:							
Nonnetwork:							
Democrat: Hays	77	7	2,374	1,962	2,374	2,016	4,390
Republican: Stewart				1,260		1,260	1,260
Nonnetwork total	77	7	2,374	3,252	2,374	3,306	5,656
Congressional District No. 19:							
Nonnetwork:							
Democrat: Carney	14		3,723	2,247	3,723	2,247	5,970
Republican: Parr	14		2,607	1,653	2,607	1,653	4,260
Nonnetwork total	28		6,330	3,900	6,330	3,900	10,230
Congressional District No. 20:							
Nonnetwork:							
Democrat: Stanton	26	75					
Republican: Vili	26	113		440		440	440
Other parties:							
Kaye	25	71					
Kish	14	55					
Nonnetwork total	91	314		440		440	440
Congressional District No. 21:							
Nonnetwork:							
Democrat: Stokes					1,427		1,427
Nonnetwork total					1,427		1,427

TABLE 5—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>OHIO—Continued</b>									
Nonnetwork:									
Democrat: Stokes.....	28	60							
Republican: Johnson.....	24	52							
Other parties:									
Lumpkins.....	23	75							
Prineas.....	28	93							
Nonnetwork total.....	103	280							
Network and nonnetwork:									
Democrat: Stokes.....							\$1,427		\$1,427
Republican: Johnson.....									
Other parties:									
Lumpkins.....									
Prineas.....									
Network and nonnetwork total.....							1,427		1,427
<b>Congressional District No. 22:</b>									
Nonnetwork:									
Democrat: Vanik.....	29	122		\$5,186	\$115		\$115		\$115
Republican: Gropp.....	36	182					5,186		11,896
Other parties:									
Lipitt.....	30	104		300	80		300	80	
Loeb.....	28	94							
Nonnetwork total.....	123	502		5,486	12,051		5,486	12,051	
Network and nonnetwork total.....									17,537
<b>Congressional District No. 23</b>									
Nonnetwork:									
Republican: Minshall.....	10								
Network total.....	10								
Nonnetwork:									
Democrat: Kucinich.....	37	72							
Republican: Minshall.....	18	71		25,819	18		25,819	18	
Other parties:									
Chapman.....	29	80							
Other parties:	14	70							
Subert.....									

Network and nonnetwork:					18	18	18	18	18
Democrat: Keenich									
Republican: Minshall									
Other parties:									
Lynn									
O'Neill									
Scherr									
Shinn									
Network and nonnetwork total					29,810	18	29,810	18	29,828
OKLAHOMA									
Congressional District No. 1:									
Nonnetwork:									
Democrat: Jones					15	158	23,972	8,396	25,412
Republican: Hewley					15	143	20,000	6,867	21,320
Other parties: Polin					15	12			6,867
Nonnetwork total					45	313	44,972	15,263	46,732
Nonnetwork total								15,263	61,985
Congressional District No. 2:									
Nonnetwork:									
Democrat: McSpadden					15		1,830	646	1,830
Republican: Toliver							2,284	78	2,284
Nonnetwork total					15		4,114	724	4,114
Nonnetwork total								724	4,853
Congressional District No. 3:									
Nonnetwork:									
Democrat: Albert								36	36
Other parties: Marshall								247	247
Nonnetwork total								36	283
Nonnetwork total								36	283
Congressional District No. 4:									
Nonnetwork:									
Democrat: Steed					15			26	26
Republican: Capler					60			354	354
Nonnetwork total					75			380	380
Nonnetwork total								380	380
Congressional District No. 5:									
Nonnetwork:									
Democrat: Jarnal					30		3,387	1,126	3,387
Republican: Keller					18		3,083	2,167	3,083
Nonnetwork total					18		6,470	3,313	7,031
Nonnetwork total								3,313	10,344



TABLE 5.—U.S. REPRESENTATIVES—1922 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>OKLAHOMA—Continued</b>									
Congressional District No. 6.									
Nonnetwork:									
Democrat: Schmitt									
Network total							\$2,140		\$2,140
Nonnetwork:									
Democrat: Schmitt		34			\$113			\$113	
Republican: Camp					1,118			1,118	
Nonnetwork total		34			1,231			1,231	
Network and nonnetwork:									
Democrat: Schmitt					113		2,140	113	
Republican: Camp					1,118			1,118	
Network and nonnetwork total					1,231		2,140	1,231	
<b>OREGON</b>									
Congressional District No. 1:									
Nonnetwork:									
Democrat: Bunch	85	426		\$1,736	785		1,736	785	
Republican: Wyatt		12			6,073			6,073	
Nonnetwork total	85	438		1,736	6,858		1,736	6,858	
Congressional District No. 2:									
Nonnetwork:									
Democrat: Ullman		16		543	1,121		543	1,121	
Nonnetwork total		16		543	1,121		543	1,121	
Congressional District No. 3:									
Nonnetwork:									
Democrat: Green	38			12,946	3,990		12,946	3,990	
Republican: Walsh	60			16,858	1,306		16,858	1,306	
Nonnetwork total	108						29,804	5,296	

Democrat: Porter.....	36	463	54	1,479	200	1,972	500	2,922
Republican: Bollenback.....	36	480	28	2,468	1,982	3,760	1,982	5,742
Nonnetwork total.....	72	969	82	4,146	2,582	5,732	2,582	8,264
Network and nonnetwork:								
Democrat: Porter.....				1,479	506	3,380	500	3,049
Republican: Dellenback.....				2,468	1,982	3,760	1,982	5,742
Network and nonnetwork total.....				4,145	2,532	7,140	2,532	9,691

# PENNSYLVANIA

## Congressional District No. 2:

Democrat: Bryant.....				1,133	192	1,133	192	1,325
Nonnetwork total.....				1,133	192	1,133	192	1,325

## Congressional District No. 3:

Democrat: McIntire.....					300		300	300
Republican: Montello.....					935		935	935
Nonnetwork total.....					1,315		1,315	1,315

## Congressional District No. 4:

Democrat: Eilberg.....	18			757	4,033	757	4,033	4,790
Republican: Plender.....	11			3,675		3,675		3,675
Nonnetwork total.....	29			4,432	4,033	4,432	4,033	8,465


## Congressional District No. 5:

Democrat: Yager.....					200		200	200
Republican: Ware.....					1,878		1,878	1,878
Nonnetwork total.....					2,158		2,158	2,158

## Congressional District No. 6:

Democrat: Yatron.....	110				2,700		2,700	3,790
Republican: Huber.....	189				6,609		6,609	3,609
Other parties: Hucl.....	60							
Nonnetwork total.....	200				7,315		7,315	7,399

TABLE 5.—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free  in minutes				Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television		Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>PENNSYLVANIA—Continued</b>												
<b>Congressional District No. 8:</b>												
Network:												
Democrat: Williams.....	2											
Republican: Biester.....	2											
Network total.....	4											
Nonnetwork:												
Democrat: Williams.....		54				\$142				\$538		\$538
Republican: Biester.....	120	64				1,253				1,253		1,253
Nonnetwork total.....	120	118				1,395				1,791		1,791
Network and nonnetwork:												
Democrat: Williams.....						142				508		508
Republican: Biester.....						1,253				1,253		1,253
Network and nonnetwork total.....						1,395				1,761		1,761
<b>Congressional District No. 9:</b>												
Nonnetwork:												
Democrat: Collins.....	15	249	60		\$1,885	2,960			\$1,885	2,960		4,875
Republican: Shuster.....	15	327	60		2,927	4,380		\$80	4,083	4,771	\$80	8,934
Nonnetwork total.....	30	576	120		4,812	7,370	80		5,968	7,761	80	13,809
<b>Congressional District No. 10:</b>												
Nonnetwork:												
Democrat: Covellette.....					965	1,274			965	1,274		2,299
Republican: Metcalfe.....					6,620	3,425			6,620	3,425		10,045
Nonnetwork total.....					7,585	4,699			7,585	4,699		12,284
<b>Congressional District No. 11:</b>												
Nonnetwork:												
Democrat: Flood.....	15	240			4,268	2,688			4,268	2,702		6,910
Republican: Ayers.....		38			1,270	396			1,270	396		1,666
Nonnetwork total.....	15	278			5,478	3,084			5,478	3,098		8,576

Nonnetwork total	15	1	1,396	810	1,396	810	2,596
Congressional District No. 13:							
Nonnetwork:							
Democrat: Camp				706		706	706
Republican: Coughlin				1,212		1,212	1,212
Nonnetwork total				1,918		1,918	1,918
Congressional District No. 14:							
Nonnetwork:							
Democrat: Moorhead	8	650		1,078		1,078	1,078
Republican: Catarinella	8	215	4,010	2,378	4,810	2,378	6,386
Other parties: Henderson		45		45		45	45
Nonnetwork total	16	910	4,010	3,497	4,810	3,497	7,507
Congressional District No. 15:							
Network:							
Democrat: Rooney					1,417		1,417
Network total					1,417		1,417
Nonnetwork:							
Democrat: Rooney	60		1				
Republican: Stagnerwell	60			101		101	101
Nonnetwork total	120		1	101		101	101
Network and nonnetwork:							
Democrat: Rooney					1,427		1,427
Republican: Stagnerwell				101		101	101
Network and nonnetwork total				101	1,427	101	1,528
Congressional District No. 16:							
Nonnetwork:							
Democrat: Garrett	27	288		1,036		1,036	1,036
Republican: Eschenman	26	338	130	128	130	128	258
Nonnetwork total	53	626	130	1,164	130	1,164	1,294

TABLE 3.—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
PENNSYLVANIA--Continued										
Congressional District No. 17:										
Nonnetwork										
Democrat: Rosten	15	4			\$210			\$210		\$210
Republican: Schneebeli		96			4,294			4,294		4,504
Other parties: Watson	15									
Nonnetwork total	30	100			4,504			4,504		4,504
Congressional District No. 18:										
Nonnetwork										
Democrat: Walgren	8	200		\$3,010			\$3,010			\$3,010
Republican: Heinz	14	665				5,012			5,012	5,012
Nonnetwork total	22	865		3,010		5,012	3,010		5,012	8,022
Congressional District No. 19:										
Nonnetwork										
Democrat: Noll		20		4,698		2,520	4,698		2,543	7,241
Republican: Gooding		20				2,568			2,568	2,568
Other parties: Lease		20								
Nonnetwork total		60		4,698		5,087	4,698		5,111	9,899
Congressional District No. 20:										
Nonnetwork										
Democrat: Gaydos	8	700	120			2,774			2,774	2,774
Republican: Hunt	8	460	120			6,475	540		6,475	7,415
Nonnetwork total	16	1,160	240			9,649	540		9,649	10,189
Congressional District No. 21:										
Nonnetwork										
Democrat: Dept.			15			1,300			1,300	1,300
Nonnetwork total			15			1,300			1,300	1,300
Congressional District No. 22:										
Nonnetwork										
Republican: Montgomery						128			128	128
Nonnetwork total						128			128	128

15 Democrat: Kassab	357	1,240	7,183	1,246	7,183	2,492
15 Republican: Johnson	337		4,886		4,886	4,886
Nonnetwork total	36	695	12,019	1,246	12,019	13,259
Congressional District No. 24:						
Nonnetwork:						
Democrat: Vigorito	30	10	925	4,111	925	5,036
Republican: Levenhagen	45	64	408	220	561	781
Nonnetwork total	75	19	1,411	4,331	1,486	5,817
Congressional District No. 25:						
Nonnetwork:						
Democrat: Clark		6	2,346		2,661	2,661
Republican: Myers		80	34		34	34
Nonnetwork total		86	2,380		2,695	2,695
PUERTO RICO						
Congressional District No. 1:						
Nonnetwork:						
Democrat: Benitez	116	116	8,429	4,250	14,541	18,791
Republican: Cordova	116	116	19,010	2,078	24,283	26,361
Other parties:						
Calderon	116	116				
Comacho	116	116				
Morales	116	116				
Nonnetwork total	580	580	27,439	6,328	38,824	45,152
RHODE ISLAND						
Congressional District No. 1:						
Nonnetwork:						
Democrat: St Germain	20	230	7,836	6,451	7,836	14,287
Republican: Feeley	75	253	274		274	274
Other parties: Miska	75	363				
Nonnetwork total	170	846	8,110	6,451	8,110	14,561
Congressional District No. 2:						
Nonnetwork:						
Democrat: Tjerna	30	82	1,756	4,084	1,756	5,840
Republican: Ryan	40	57	2,616		2,616	2,616
Nonnetwork total	70	139	4,372	4,084	4,372	8,456

**SOUTH CAROLINA**

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>SOUTH CAROLINA</b>									
<b>Congressional District No. 1:</b>									
Nonnetwork:									
Democrat: Davis		18		\$10,805	\$4,444		\$10,805	\$4,444	
Republican: Linneuse		25		20,423	2,762		20,654	2,841	
Nonnetwork total		43		31,228	7,206		31,459	7,285	
<b>Congressional District No. 2:</b>									
Nonnetwork:									
Democrat: Dorn	33				903			903	
Republican: Ethridge	33			141	155		411	155	
Nonnetwork total	66			141	958		411	958	
<b>Congressional District No. 4:</b>									
Nonnetwork:									
Democrat: Mann	33	20		4,590	2,243		5,055	2,243	
Republican: Whaley	33	3		1,338	129		1,608	129	
Nonnetwork total	66	23		5,918	2,372		6,543	2,372	
<b>Congressional District No. 5:</b>									
Nonnetwork:									
Democrat: Gajdos	6	274			2,956			3,548	
Republican: Phillips	6	163		550	180		785	1,032	
Nonnetwork total	12	437		550	3,135		785	4,580	
<b>Congressional District No. 6:</b>									
Nonnetwork:									
Democrat:									
Crilly	16								
Republican: Young	35	415	15	10,488	6,778		11,247	5,810	
Nonnetwork total	51	778	15	19,490	13,753		21,441	19,018	

Congressional District No. 1:									
Nonnetwork:									
Democrat: Dandim	54	140	1,383	1,383	2,168	1,135	-----	-----	5,905
Republican: Wickham	48	433	4,338	1,359	5,862	1,359	-----	-----	7,211
Nonnetwork total	106	613	5,719	2,487	8,020	2,487	-----	-----	10,517
Congressional District No. 2:									
Nonnetwork:									
Democrat: McKeever	156	210	7,080	3,977	9,539	3,977	-----	-----	12,188
Republican: Abdou	117	177	3,355	3,975	147	3,975	-----	-----	7,552
Nonnetwork total	276	387	10,435	7,952	646	7,952	-----	-----	19,740
TENNESSEE									
Congressional District No. 1:									
Nonnetwork:									
Democrat: Cantor	50	5	-----	2,400	-----	2,400	-----	-----	2,400
Republican: Quillen	5	-----	-----	131	-----	131	-----	-----	131
Nonnetwork total	56	5	-----	2,531	-----	2,531	-----	-----	2,531
Congressional District No. 3:									
Nonnetwork:									
Democrat: Sompayrac	48	215	6,008	4,064	6,008	4,064	-----	-----	10,072
Republican: Baker	48	234	11,039	5,485	11,039	5,485	-----	-----	16,524
Other parties:	28	90	1,972	8	1,972	8	-----	-----	1,980
Deaney	-----	-----	-----	196	-----	196	-----	-----	196
Hill	-----	-----	-----	-----	-----	-----	-----	-----	-----
Nonnetwork total	124	529	19,019	9,753	19,019	9,753	-----	-----	28,772
Congressional District No. 4:									
Nonnetwork:									
Democrat: Evis	73	-----	-----	1,084	-----	1,084	-----	-----	1,084
Nonnetwork total	73	-----	-----	1,084	-----	1,084	-----	-----	1,084
Congressional District No. 5:									
Nonnetwork:									
Democrat: Fulton	69	96	6,254	3,619	9,199	3,619	-----	-----	12,813
Republican: Adams	69	153	17,465	5,865	20,715	5,865	-----	-----	26,680
Other parties:	39	91	-----	-----	-----	-----	-----	-----	-----
Deodas	69	171	-----	176	-----	176	-----	-----	176
Gahert	-----	-----	-----	-----	-----	-----	-----	-----	-----
Nonnetwork total	246	519	25,709	9,680	29,814	9,680	-----	-----	39,594



TABLE 5.—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free minutes			Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>TENNESSEE—Continued</b>											
Congressional District No. 6:											
Nonnetwork:											
Democrat: Anderson	82	69		\$20,479	\$8,389			\$20,479	\$8,389		\$28,868
Republican: Beard	87	135		9,713	4,770			9,713	4,770		14,483
Other parties: Doss	82	83			58				58		58
Nonnetwork total	246	285		\$30,192	13,217			\$30,192	13,217		43,409
Congressional District No. 7:											
Nonnetwork:											
Democrat: Jones	28	41	20	11,838	5,419			11,838	5,419		17,257
Republican: Adkins	28	44		1,302	45			1,347	61		1,408
Nonnetwork total	56	128	20	13,142	5,464			13,177	5,480		18,657
Congressional District No. 8:											
Nonnetwork:											
Democrat: Patterson	165	398		5,330	6,468			5,330	6,468		11,798
Republican: Kuykendall	135	399		19,295	4,182			19,295	4,182		23,477
Other parties: Porter	7										
Nonnetwork total	307	796		24,535	10,650			24,535	10,650		35,185
<b>TEXAS</b>											
Congressional District No. 1:											
Nonnetwork:											
Democrat: Palma	165	15									
Nonnetwork total	165	15									
Congressional District No. 2:											
Nonnetwork:											
Republican: Brightwell				100	708			100	708		808
Nonnetwork total				100	708			100	708		808
Congressional District No. 3:											

	8	70	70
Nonnetwork:			
Democrat: Roberts	8		
Republican: Russell			
Nonnetwork total	8	70	
Congressional District No. 5:			
Nonnetwork:			
Democrat: Cabell	9	4	
Republican: Steelman	35	36	
Nonnetwork total	44	40	
Congressional District No. 6:			
Nonnetwork:			
Democrat: Teague			211
Nonnetwork total			211
Congressional District No. 7:			
Nonnetwork:			
Democrat: Brady	15	109	
Republican: Archer		24	
Nonnetwork total	15	133	
Congressional District No. 8:			
Nonnetwork:			
Democrat: Eckhardt			713
Nonnetwork total			713
Nonnetwork:			
Democrat: Eckhardt	8	147	
Republican: Emerich	8	12	
Other parties: Ellis	8	24	
Nonnetwork total	24	183	
Nonnetwork and nonnetwork:			
Democrat: Eckhardt			713
Republican: Emerich			
Other parties: Ellis			
Nonnetwork and nonnetwork total			713

TABLE 5.—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
TENNESSEE—Continued										
Congressional District No. 9:										
Nonnetwork:										
Democrat: Brooks		15		\$4,829	\$2,791		\$4,829	\$2,791		\$7,620
Republican: Reed		135		654	231		1,211	323		1,534
Nonnetwork total		150		5,483	3,022		6,040	3,114		9,154
Congressional District No. 10:										
Nonnetwork:										
Democrat: Pickle					25			25		25
Other parties: Singler	10									
Nonnetwork total	10				25			25		25
Congressional District No. 13:										
Nonnetwork:										
Democrat: Purcell		60		11,759	6,538		11,759	6,538		18,297
Republican: Price		75		25,313	4,287		26,340	4,836		31,176
Nonnetwork total		135		37,072	10,825		38,099	11,374		49,473
Congressional District No. 14:										
Nonnetwork:										
Democrat: Young					189			189		189
Nonnetwork total					189			189		189
Congressional District No. 15:										
Nonnetwork:										
Democrat: Garza	7									
Nonnetwork total	7									
Congressional District No. 16:										
Nonnetwork:										
Democrat: White					17			17		17
Nonnetwork total					17			17		17



**TENNESSEE—Continued**

Congressional District No. 24:			
Nonnetwork:	48	5	5479
Democrat: Milford	48	5	1,754
Republican: Roberts	48	5	34,215
Nonnetwork total	96	10	4,285
UTAH			2,233
			4,477
			6,710
Congressional District No. 1:			
Nonnetwork:			
Democrat: McKay	87	145	3,127
Republican: Watkins	87	145	2,381
Other parties: Brown	28	18	95
Nonnetwork total	202	361	5,603
			25,320
			5,628
			30,946
Congressional District No. 2:			
Nonnetwork:			
Democrat: Owens	28	282	10,003
Republican: Lloyd	49	183	5,676
Other parties: Bangert	28	18	21,255
Nonnetwork total	105	483	15,679
			44,501
			15,679
			60,180
VIRGINIA			
Congressional District No. 1:			
Nonnetwork:			
Democrat: Downing	15	34	5,026
Republican: Wells	15	34	2,215
			9,261
			4,383
Nonnetwork total	30	34	13,654
			8,243
			13,654
			8,265
			21,919
Congressional District No. 2:			
Nonnetwork:			
Democrat: Barkage	15	26	1,692
Republican: Whitehurst	15	26	4,132
			8,787
			7,321
Nonnetwork total	30	26	16,108
			5,924
			21,932

Democrat	40			1,104		1,104		1,104		1,104
Nonnetwork	15									
Ward				1,305		1,305		1,305		1,305
Nonnetwork total	60	8	2,918	2,909	6,215	2,909	6,215	2,909	6,215	9,194
Congressional District No. 5:										
Nonnetwork:										
Democrat, Daniel		20			51		51		51	51
Nonnetwork total		20			51		51		51	51
Congressional District No. 6:										
Nonnetwork:										
Democrat, Anderson	251	238		6,497	5,022		6,747		5,022	11,769
Republican, Butler	251	256		9,731	6,486		10,231		6,514	16,745
Other parties, White	251	205		784	6,769		784		789	1,069
Nonnetwork total	753	699		16,912	12,277		17,762		12,305	29,577
Congressional District No. 7:										
Nonnetwork:										
Democrat, Williams	48	51	90	8,547	5,093		8,547		5,193	13,740
Republican, Robinson	39	49	86		6,653				7,077	13,624
Nonnetwork total	87	100	180	8,547	11,746		8,547		12,270	20,817
Congressional District No. 8:										
Nonnetwork:										
Democrat, Dunland										
Nonnetwork total										
Democrat, Horan	60	172		3,360	7,064		3,360		7,064	10,424
Republican, Parris	80	151			18,216				18,216	18,216
Other parties, Dunland	58	92		7,882	2,116		7,882		2,136	10,018
Harris	44	96								
Nonnetwork total	242	513		11,242	27,396		11,242		27,416	38,638
Network and nonnetwork:										
Democrat, Horan										
Republican, Parris										
Other parties, Dunland										
Harris										
Nonnetwork total										
Network and nonnetwork total										



Democrat	97	54	39	174	174
Lab.	76	174	174	174	174
Nonnetwork total	288	977	1,671	1,671	3,536
Network and nonnetwork:					
Democrat:					
Major					
Other					
Republican: McIntyre					
Other parties:					
Doris					
Lark					
Network and nonnetwork total					
WASHINGTON					
Congressional District No. 1					
Nonnetwork:					
Democrat: Hempelmann	5	101	10,795	6,987	17,982
Republican: Pritchard	6	31	10,905	4,722	15,627
Other parties: Hents	5	31			
Nonnetwork total	16	163	21,700	11,619	33,319
Congressional District No. 2					
Nonnetwork:					
Democrat: Meeds	38	22		1,453	3,453
Republican: Resnick	39	72		2,025	2,025
Nonnetwork total	76	94		5,478	5,478
Congressional District No. 3					
Nonnetwork:					
Democrat: Hansen			1,610	693	2,303
Republican: McCoskey		90		52	52
Nonnetwork total		90	1,610	745	2,355
Congressional District No. 4					
Nonnetwork:					
Democrat: McCormack	103	456	5,702	5,228	11,453
Republican: Blodson	78	445	6,024	6,526	12,600
Nonnetwork total	181	901	11,726	11,754	24,053



TABLE 5.—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>WASHINGTON—Continued</b>											
Congressional District No. 5:											
Nonnetwork:											
Republican: Pivette.....		25									
Nonnetwork total.....		25									
Congressional District No. 6:											
Nonnetwork:											
Democrat: Hicks.....	52	127									
Republican: Lory.....	52	17									
Nonnetwork total.....	104	144									
Congressional District No. 7:											
Network:											
Democrat: Adams.....								\$713			\$713
Network total.....								713			713
Nonnetwork:											
Democrat: Adams.....	6	6									
Republican: Freese.....	6	5									
Nonnetwork total.....	12	12									
Network and nonnetwork:											
Democrat: Adams.....								713			713
Republican: Freeman.....											
Network and nonnetwork total.....								713			713
<b>WEST VIRGINIA</b>											
Congressional District No. 2:											
Nonnetwork:											
Democrat: Staggers.....		5						3842	3847		1,629
<b>WISCONSIN</b>											
Congressional District No. 1:											
Nonnetwork:											
Democrat: Abtin.....	4	206									
Republican: Stalheim.....	12	133									
Other parties: Fortner.....	29	548									
Nonnetwork total.....		220									
											13,955

<b>Nonnetwork:</b>									
Democrat: Kastemeier	4	141	4,846	2,968	5,018	2,968	7,964		
Republican: Kelly	7	196	4,866	2,447	856	2,774	3,730		
Other parties: Mohr	5	127	561	39	561		3,581		
Nonnetwork total	24	464	8,363	5,743	6,533	5,743	12,275		
<b>Network and nonnetwork:</b>									
Democrat: Kastemeier			4,846	2,968	5,723	2,968	8,937		
Republican: Kelly			4,866	2,774	856	2,774	3,730		
Other parties: Mohr			561		561		3,581		
Network and nonnetwork total			8,363	5,742	7,246	5,742	12,999		
<b>Congressional District No. 3:</b>									
<b>Non network:</b>									
Democrat: Thoresen	248	70	5,480	7,122	6,101	7,122	13,283		
Republican: Thompson	247	70	3,863	4,127	3,612	4,127	7,739		
Other parties: Ellison	205	40				42	42		
Nonnetwork total	700	180	8,553	11,249	9,713	11,351	21,064		
<b>Congressional District No. 4:</b>									
<b>Nonnetwork:</b>									
Democrat: Zablocki	17	14							
Republican: Mrozinski	17	14							
Nonnetwork total	34	28							
<b>Congressional District No. 5:</b>									
<b>Nonnetwork:</b>									
Democrat: Reuss	194	80							
Republican: Van Hecke	14	60							
Other parties: Chapman	14	65							
Nonnetwork total	222	205							
<b>Congressional District No. 6:</b>									
<b>Nonnetwork:</b>									
Democrat: Adams	5	111	5,680	1,801	5,680	1,801	1,001		
Republican: Sieger	65	91		1,034		1,034	6,724		
Other parties: Sitter	10	10							
Nonnetwork total	70	212	5,680	2,835	5,680	2,835	7,725		

TABLE 5.—U.S. REPRESENTATIVES—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>WISCONSIN—Continued</b>									
<b>Congressional District No. 7:</b>									
Nonnetwork:									
Democrat: Obey		412		\$11,751	\$9,287		\$19,050	\$9,329	
Republican: O'Rourke		379		2,173	2,139		7,574	2,154	
Nonnetwork total		791		13,924	11,426		25,624	11,483	
Nonnetwork total									37,117
<b>Congressional District No. 8:</b>									
Nonnetwork:									
Democrat: Carroll	180	253		15,998	1,087		15,998	1,087	
Republican: Friedel	180	237		20,176	3,127		20,176	3,127	
Other parties: Banker		2							
Nonnetwork total	360	492		36,174	5,114		36,174	5,114	
Nonnetwork total									41,296
<b>Congressional District No. 9:</b>									
Nonnetwork:									
Democrat: Fine	17	114		1,557	1,843		1,557	1,843	
Republican: Davis	17	109			1,570			1,570	
Other parties: Reed	10			6,176			6,176		
Nonnetwork total	44	223							
Nonnetwork total									11,166



TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
ALASKA										
Congressional District No. 1:										
Nonnetwork:										
Democrat: Begich	60	55	10		\$2,296	\$198		\$2,311	\$198	\$2,509
Republican: Young	80	170	10	\$1,282	968		\$1,282			\$2,250
Nonnetwork total	140	225	20	1,282	3,262	198	1,282	3,307	198	4,787
ALABAMA										
Congressional District No. 2:										
Nonnetwork:										
Democrat:										
Bazell	15	60		8,626	10,363		8,626	10,363		18,989
Eastling	19	4			458			458		458
Mitchell	15	63		16,660	4,894		17,148	5,064		22,212
Reyes	15	60		17,661	10,838		17,961	10,838		28,800
Walker					18			18		18
Woods	15	60		12,766	5,235		12,766	5,235		18,001
Republican: Dickinson	26	4			65			65		65
Nonnetwork total	101	251		55,653	31,872		56,501	32,042		88,543
Congressional District No. 3:										
Nonnetwork:										
Democrat: Nichols			90							
Nonnetwork total			90							
Congressional District No. 4:										
Nonnetwork:										
Republican:										
Hundley		30								
Nelson										
Nonnetwork total		30								
Congressional District No. 5:										
Nonnetwork:										
Democrat:										
Garner										
Nonnetwork total										

<b>June</b>	<b>153</b>	<b>12,633</b>	<b>4,397</b>	<b>16,030</b>
<b>Nonnetwork total</b>				
<b>Congressional District No. 6:</b>				
Nonnetwork:				
Democrat: Austen			40	124
Republican: Buchanan	161			
<b>Nonnetwork total</b>	<b>161</b>	<b>40</b>		<b>124</b>
<b>Congressional District No. 7:</b>				
Nonnetwork:				
Democrat:				
Flowers	120	488	2,001	408
Murphy	4	15	6,940	2,031
<b>Nonnetwork total</b>	<b>120</b>	<b>488</b>	<b>8,941</b>	<b>8,971</b>
<b>Nonnetwork total</b>	<b>281</b>	<b>528</b>		<b>9,459</b>
<b>ARKANSAS</b>				
<b>Congressional District No. 3:</b>				
Nonnetwork:				
Democrat:				
Hatfield	3		665	665
Sulberg		165		307
Other parties: Cain			487	142
<b>Nonnetwork total</b>	<b>3</b>	<b>165</b>	<b>1,152</b>	<b>1,252</b>
<b>Congressional District No. 4:</b>				
Nonnetwork:				
Democrat:				
Arnold	15		964	9,672
Coleman	15	7,322		1,024
Mays	110	431	88	238
Thornton	45	2,479	547	547
		9,292	6,078	10,142
<b>Nonnetwork total</b>	<b>90</b>	<b>20,124</b>	<b>7,587</b>	<b>22,824</b>
<b>Nonnetwork total</b>	<b>90</b>	<b>20,124</b>	<b>7,587</b>	<b>30,813</b>
<b>ARIZONA</b>				
<b>Congressional District No. 1:</b>				
Nonnetwork:				
Democrat:				
Pallock	3		125	125
Royer	8			
Republican: Cooley	8			
<b>Nonnetwork total</b>	<b>24</b>	<b>125</b>		<b>125</b>

TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
ARIZONA—Continued										
Congressional District No. 2:										
Network:										
Democrat: Udall	10									
Network total	10									
Nonnetwork:										
Democrat: Udall		15	15							
Republican: Service		15	15	\$1,808			\$1,808			\$1,808
Nonnetwork total		30	30	1,808			1,808			1,808
Network and nonnetwork:										
Democrat: Udall										
Republican: Service				1,808			1,808			1,808
Network and nonnetwork total				1,808			1,808			1,808
Congressional District No. 3:										
Nonnetwork:										
Democrat: Wyckoff		250						\$8		\$8
Republican: Steiger	30	67								
Nonnetwork total	30	317						\$8		\$8
Congressional District No. 4:										
Nonnetwork:										
Democrat:										
Bockman	5	225			536		22,626	61		61
Brown	11	640		21,722	8,740		8,796			31,422
Grossman	6	15		3,520	1,125		3,720			8,865
Mordwell	11	240			50		50			50
Revelles	11	405		5,445	1,198		5,596	1,213		6,808
Republican:										
Baker	18	65		4,678	416		4,768	416		5,184
Conlin	8	25		6,432	2,218		7,967	2,304		10,291
Garfield	23	250								
Nonnetwork total	88	1,065		41,987	13,783					58,821





TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
CALIFORNIA—Continued										
Congressional District No. 7:										
Nonnetwork:										
Democratic:										
Deftens:	10	133								
Sestrovich:	7	15			\$697			\$697		\$697
Republican:										
Bull:	7		5							
Den Dulk:	7		5		\$76			\$76		\$76
Hannaford:	7		5							
Schuh:	7	30	5		108			108		108
Wysinger:	7		5							
Other parties: Cortese:	7		5							
Nonnetwork total	68	178	25		1 681			1 681		1,681
Congressional District No. 8:										
Nonnetwork:										
Democratic:										
Abbott:	7				217			217		217
Davis:	7				216			216		216
Michals:	7				116			116		116
Miller:	7									
Nodwell:	7	141								
Stark:		237		\$16,910	5,253		\$20,158	5,253		25,411
Vot:							879			879
Republican:										
Trojillo:	7				45			45		45
Warden:	7									
Nonnetwork total	56	378		16,910	5,947		21,087	5,947		28,884
Congressional District No. 9:										
Nonnetwork:										
Democratic:										
Edwards:	105	7								
Ervin:		3								
Republican: Smith:		3								
Nonnetwork total	105	13								

Congressional District No. 11:				
Network:				
Republican: Wilson	6			
Network total	6			
Nonnetwork:				
Democrat: Ryan	15	20		
Republican:				
Chase	15	20		
Jackson	15	20		
Wilson	15	25		
Other parties: Kudrowatz	15	20		
Nonnetwork total	75	113		
Network and nonnetwork:				
Democrat: Ryan				
Republican:				
Chase				
Jackson				
Wilson				
Other parties: Kudrowatz				
Network and nonnetwork total				
Congressional District No. 12:				
Network:				
Democrat:				
Canischo	422	470	9	9
Hernandez	60	470	20	470
Vercoe	60		20	20
Republican: Talcott	248	1,536		1,536
Other parties: Mostell	60			
Nonnetwork total	842	2,006	29	2,006
Congressional District No. 14:				
Network:				
Democrat: Waldfie	309	51	29	29
Republican: Sims			29	
Nonnetwork total	309	51	58	

TABLE 6—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes		Charges for announcements				Total charges for time and announcements			
	Television	Cable television	Television	Radio	Cable television		Television	Radio	Cable television	Total
CALIFORNIA—Continued										
Congressional District No. 15:										
Nonnetwork:										
Democrat: McFall										
Republican: Humphrey										
Nonnetwork total	8			30				30		\$30
Congressional District No. 16:										
Nonnetwork:										
Democrat: Sisk			1,202	763			\$1,972	763		2,735
Nonnetwork total			1,202	763			1,972	763		2,735
Congressional District No. 17:										
Nonnetwork:										
Democrat:										
Chota	16									
Duke	28									
Gillmore	10			472				472		472
Hughes	10			712				712		712
Stewart	10									
Republican:										
Barry	10		6,423				6,423			6,423
Cole	10									
McCloskey	40		16,364	6,099			17,522	6,099		23,621
Nonnetwork total	100		22,787	7,283			23,945	7,283		31,228
Congressional District No. 18:										
Nonnetwork:										
Democrat: Lavery	14									
Republican: Mathias	8									
Nonnetwork total	23									
Congressional District No. 19:										



TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
CALIFORNIA—Continued										
Congressional District No. 25:										
Nonnetwork:										
Democrat:										
Craven.....		16			\$45			\$45		\$45
Olivet.....		10								
Nonnetwork total.....		26			45			45		45
Congressional District No. 26:										
Nonnetwork:										
Democrat:										
Anderson.....	5	10								
Rees.....	10									
Snow.....		3								
Nonnetwork total.....	15	13								
Congressional District No. 27:										
Nonnetwork:										
Democrat:										
Batschko.....		12			1,047			1,047		1,047
Carey.....		46			59			59		59
McInerney.....		10								
Norak.....				\$1,102	863		\$1,102	863		1,965
Republican: Goldwater.....									1,102	1,102
Nonnetwork total.....		67		1,102	1,908		1,102	1,908		3,909
Congressional District No. 28:										
Nonnetwork:										
Democrat:										
Brown.....		12								
Cox.....					556			556		556
Gallagher.....		12								
Shapiro.....	62			1,102			1,102			1,102
Republican: Bell.....		13								
Other parties: Thompson.....									1,102	1,102

Nonnetwork Total	5		
Congressional District No. 30:			
Nonnetwork:			
Democrat:			
Buchanan	12		
Royal	10		
Scott	5		
Nonnetwork total	5	25	
Congressional District No. 31:			
Nonnetwork:			
Democrat:			
Shaffer	11	357	357
Wilson	10		
Other parties: Wood	10		
Nonnetwork total	10	357	357
Congressional District No. 32:			
Nonnetwork:			
Democrat: Murray	30		
Republican: Hosmer	30		
Nonnetwork total	60		
Congressional District No. 33:			
Nonnetwork:			
Democrat: Weismiller	10		
Nonnetwork total	10		
Congressional District No. 34:			
Nonnetwork:			
Republican:			
Brachmans	10	1,200	1,200
Hoyburn	8		
Other parties: Rayburn	8		
Nonnetwork total	18	1,200	1,200

TABLE 5.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>CALIFORNIA—Continued</b>									
Congressional District No. 36:									
Nonnetwork:									
Democrat:									
Baker	5	10		\$3,640	\$4,208		\$3,640	\$4,208	
Christiansen	5	8		211	576		444	576	
George	5	10							
Green	5				27			27	
Lamucht	5	10		645	368		645	368	
Upp				1,138	678		1,138	678	
Republican: Ketchum					276			276	
Nonnetwork total	25	38		5,634	4,133		5,637	4,133	
Congressional District No. 37:									
Nonnetwork:									
Democrat:									
Brugdon	7	10							
Burke	27				627			627	
Mills	7				591			591	
Sands	4	90							
Smith					1,224			1,224	
Republican:									
Jones		92							
Lewis		100							
Tra		9							
Nonnetwork total	45	301			2,442			2,442	
Congressional District No. 38:									
Nonnetwork:									
Democrat:									
Avala	5				1,945			1,945	
Brown		4			4,214			4,214	
Green		5			2,660			2,660	
McDaniel		10							
Turno		2			97			97	
Republican:									
Andrews		4		300	2,248			2,248	
Sunder		4			3,150		320	3,150	
Nonnetwork total				300	3,150		320	3,150	

Nonnetwork:	2	70	70	70	70
Black					
Louder					
Republican:					
Carraway	1				\$170
Schmitz		1,287		1,287	1,287
Nonnetwork total	3	1,287	70	170	1,527
Congressional District No. 40:					
Nonnetwork:	2				
Democrat: Caprio					
Republican: Wilson	15				
Nonnetwork total	17				
Congressional District No. 41:					
Nonnetwork:					
Democrat:	4				
Kau	4				
Van Deerlin	17				
Nonnetwork total	17				
Congressional District No. 42:					
Nonnetwork:					
Democrat:	2				
Lowe	2				
Tonchak	4				
Republican:	6				
Burgess	17	23	7,832	7,832	7,832
Gage	4				
Lewis	2		1,907	1,907	1,907
Ream	6				
Other parties, Moths	2	28			
Nonnetwork total	29	51	9,739	9,739	9,739
Congressional District No. 43:					
Nonnetwork:					
Democrat:	3		120	120	120
Randall					
Robles			165	165	165
Republican: Veysey	77	12			
Nonnetwork total	77	15	165	120	285



TABLE 5.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
COLORADO										
Congressional District No. 1:										
Network:										
Democrat: Schroeder	2									
Republican: McKevitt	6									
Network total	8									
Nonnetwork:										
Democrat:										
Decker	15	125		\$17,419	\$7,439		\$18,019	\$7,439		\$25,458
Schroeder	30	135		5,183	51		5,323	51		5,374
Nonnetwork total	45	260		22,602	7,490		23,342	7,490		30,832
Network and nonnetwork:										
Democrat:										
Decker				17,419	7,439		18,019	7,439		25,458
Schroeder				5,183	51		5,323	51		5,374
Republican: McKevitt										
Network and nonnetwork total				22,602	7,490		23,342	7,490		30,832
Congressional District No. 3:										
Nonnetwork:										
Democrat: Evans	15	15								
Republican:										
Brady		45			544			544		544
Inga										
Nonnetwork total	15	60			544			544		544
Congressional District No. 4:										
Nonnetwork:										
Democrat:										
Amisall	7	142		7,714	4,346		7,714	4,356		12,060
Morgan	7	148		1,938	6,792		1,938	6,792		8,730
Republican:										
Born		43			936			936		936
Johnson		33			155			155		155

Democrat: Johnson	22	65	135	2,615	125	2,615	125	2,615
Democrat: Starkman	22	65	135	2,615	125	2,615	125	2,615
Republican: Armstrong								
Nonnetwork total	44	130	270	5,230	2,410	2,740	2,740	2,740
CONNECTICUT								
Congressional District No. 2:								
Nonnetwork:								
Republican: Steele				3,920	1,025	3,920	1,025	4,945
Nonnetwork total				3,920	1,025	3,920	1,025	4,945
Congressional District No. 3:								
Nonnetwork:								
Democrat: Casano		52						
Other parties: Ruffin		57						
Nonnetwork total		109						
Congressional District No. 4:								
Nonnetwork:								
Republican: McKinney		22						
Nonnetwork total		22						
DISTRICT OF COLUMBIA								
Congressional District No. 1:								
Nonnetwork:								
Democrat: Faustoy		136						
Republican: Graves				4,644	738	4,644	738	4,644
Nonnetwork total		136		4,644	738	4,644	738	4,644
Congressional District No. 2:								
Nonnetwork:								
Democrat: Almbert		24						
Republican: Chin Lee		24						
Nonnetwork total		48						
Congressional District No. 3:								
Nonnetwork:								
Democrat: Moore		22						
Nonnetwork total		22						
Congressional District No. 4:								
Nonnetwork:								
Democrat: Felt		142						
Nonnetwork total		142						

TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
DELAWARE										
Congressional District No. 1:										
Nonnetwork:										
Republican: DuPont	199	10								
Nonnetwork total	199	10								
FLORIDA										
Congressional District No. 1:										
Nonnetwork:										
Democrat:										
Baker	4		30	988	821			821		821
Brannon	10		30	480			988			988
Childers										480
Sikes	43	30		9,311	832		9,418	832		10,250
Nonnetwork total	57	30	60	10,469	853		10,506	853		11,359
Congressional District No. 2:										
Nonnetwork:										
Democrat:										
Fequa	53	25		2,639	3,177			3,177		5,836
Skinner	53	25			1,373			1,373		1,978
Nonnetwork total	106	50		2,639	4,550		2,639	4,553		7,212
Congressional District No. 4:										
Nonnetwork:										
Democrat: Chappell		94								
Republican: Fleischman		75			417			417		417
Nonnetwork total		439			417			417		417
Congressional District No. 5:										
Nonnetwork:										
Democrat:										
Gentle	27	96								
Nonnetwork			15							
			15					3,063		3,063

Bailey	57	12	13	197	5,822	197	5,848	6,045
Snyder	12	16	15					
Nonnetwork total	179	201	75	197	13,105	197	13,283	13,460
Congressional District No. 8:								
Nonnetwork:								
Democrat: Hale		28						
Republican: Thompson	10	28						
Nonnetwork total	10	56						
Congressional District No. 10:								
Nonnetwork:								
Democrat:								
Darison	33	186	40	3,621	1,349		1,349	4,970
Scott	81	315	110	13,195	4,405		4,405	17,600
Sikes	31	281	130	12,030	2,241		2,241	14,271
Thorn	48	227	20	5,912	2,103		2,103	8,015
Republican:								
Bastals	12	205	20	8,696	4,801		4,801	13,497
Myers	26	91	40	8,411	903		903	1,344
Nonnetwork total	231	1,305	360	43,865	15,802		15,832	59,697
Congressional District No. 11:								
Nonnetwork:								
Democrat: Boggs			10		128		128	128
Republican: Gustafson								
Nonnetwork total			10		128		128	128
Congressional District No. 13:								
Nonnetwork:								
Democrat:								
Balmer	20	8		1,546	686		686	2,244
Davis	28				224		244	224
Kistak	28				8,500		6,500	24,110
Ladman	80	228		17,610	3,361		3,361	12,014
Papp	20	115		1,980	1,116		1,371	3,301
Weissenborn	40	248		14,055	4,329		4,329	18,384
Wolton	20	20		12,608	4,497		4,497	17,105
Republican:								
Bethel	19	15		1,292	376		503	1,795
McNees	19							
Mondres	19							
Nonnetwork total	317	524		57,684	21,301		21,683	79,377

TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
DELAWARE—Continued										
Congressional District No. 14:										
Nonnetwork:										
Democrat:										
Dettmer:	43	289		\$5,578	\$3,782		\$5,578	\$3,782		\$9,360
Pepper:	43	282			3,321			3,321		3,321
Republican: Estrella:	15									
Nonnetwork total:	101	571		5,578	7,103		5,578	7,103		12,681
Congressional District No. 15:										
Nonnetwork:										
Republican:										
Perilla:	15									
Rubin:	15									
Nonnetwork total:	30									
GEORGIA										
Congressional District No. 1:										
Nonnetwork:										
Democrat:										
Gale:	90	444		21,944	3,494		21,951	3,149		25,100
Hagan:	39	407		5,353	3,092		6,298	3,092		9,392
Yager:	20	212		682	658		629	658		1,287
Republican: Gowan:	16	25								
Nonnetwork total:	110	1,089		17,999	6,844		19,133	6,899		26,032
Congressional District No. 4:										
Nonnetwork:										
Democrat:										
Bado:	29									
Webster:	29									
Republican: Blackburn:	129	110								
Nonnetwork total:	178									
Congressional District No. 5:										
Nonnetwork:										

Nonnetwork total	28	479	4,486	5,735	4,486	5,735	10,221
Congressional District No. 6:							
Nonnetwork:							
Democrat:							
Fynn	14						
Gurley	14						
Nonnetwork total	28						
Congressional District No. 7:							
Nonnetwork:							
Democrat:							
Dyck	5	45		2,968		4,371	4,371
McDonald	5	53		4,305		5,167	5,167
Republicans: McNichen			28,543		28,543		30,118
Nonnetwork total	5	503	28,543	7,264	28,543	9,938	38,481
Congressional District No. 8:							
Nonnetwork:							
Democrat:							
Miller	17	47		1,519		1,526	2,985
Pawell	13	53		2,000		1,035	1,773
Stuckey	17	49		3,586		3,928	4,717
Republicans: Thompson	150	10					
Nonnetwork total	181	159	2,203	5,303	2,958	6,458	9,425
Congressional District No. 10:							
Nonnetwork:							
Democrat: Stephens						49	49
Nonnetwork total						49	49
GUAM							
Congressional District No. 1:							
Nonnetwork:							
Democrat: Pelt						51	58
Republican: Perez							
Nonnetwork total						51	58
Nonnetwork total						51	109

**TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued**

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>HAWAII</b>									
Congressional District No. 1:									
Nonnetwork:									
Democrat: Matsunaga	224			\$4,817	\$3,854		\$4,817	\$3,854	
Republican:	269								
Realizing	164			4,052	3,190		4,052	3,190	
White									
Nonnetwork total	657			8,869	7,044		8,869	7,044	
Congressional District No. 2:									
Nonnetwork:									
Democrat:									
Carter	351								
Goetz	396								
Mink	426	10		3,594	2,013		3,596	2,013	
Republican: Hansen	291	213			497			437	
Nonnetwork total	1,464	223		3,594	2,450		3,596	2,450	
<b>IOWA</b>									
Congressional District No. 1:									
Nonnetwork:									
Democrat: Maczlosky	1								
Nonnetwork total	1								
Congressional District No. 2:									
Nonnetwork:									
Democrat:									
Maczlosky	15	32			143			143	
Schickler	15	30						19	
Schickler	15	30			16				
Republican: Schwengel	15	30							
Nonnetwork total	60	122			162			162	





TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>ILLINOIS</b>									
Congressional District No. 4:									
Nonnetwork:									
Republican: Derwinski.....	180	15							
Nonnetwork total.....	180	15							
Congressional District No. 7:									
Nonnetwork:									
Democrat: Hammer.....		16			\$567			\$567	\$567
Republican: Leach.....		21							
Nonnetwork total.....		37			\$567			\$567	\$567
Congressional District No. 8:									
Network:									
Democrat: Rostenkowski.....	4								
Network total.....	4								
Nonnetwork:									
Democrat: Rostenkowski.....	10								
Nonnetwork total.....	10								
Network and nonnetwork:									
Democrat: Rostenkowski.....									
Network and nonnetwork total.....									
Congressional District No. 10:									
Nonnetwork:									
Democrat:									
Blase.....					30			30	30
Blase.....	249								
Blase.....	179								
Republican:									
Republican.....	364								
Republican total.....									

Nonnetwork total	254	506	30	30
Congressional District No. 12:				
Nonnetwork:	7			
Republican: Crane	7			
Nonnetwork total	7			
Congressional District No. 13:				
Nonnetwork:		77		
Democrat: Beetham		77		
Nonnetwork total		77		
Congressional District No. 15:				
Nonnetwork:				
Democrat:				
Dingell	41			
Hall	71		1,038	1,038
Republican:				
Ayres	75		1,820	1,820
Carbo			867	867
Cunningham	48		760	760
Nonnetwork total	232		4,415	4,415
Congressional District No. 16:				
Nonnetwork:				
Democrat: Devine	30			
Republican: Anderson	30			
Nonnetwork total	60			
Congressional District No. 20:				
Nonnetwork:				
Republican: Findley	56		6,202	6,202
Nonnetwork total	56		6,202	6,202
Congressional District No. 21:				
Nonnetwork:				
Democrat: Johnson	1		52	52
Republican:				
Madigan	41		3,133	3,133
Smith	41		1,311	1,311
Other parties: Shultz	48		4,292	4,292
Nonnetwork total	1	162	14,420	4,526
Nonnetwork, total			14,420	4,526

TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
ILLINOIS—Continued										
Congressional District No. 22:										
Democrat: Shipley				\$11,829	\$93		\$11,829	\$93		\$93
Republican: Lamkin										11,829
Other parties: Duzaia								45		45
Nonnetwork, total				11,829	93		11,829	138		11,967
Congressional District No. 23:										
Nonnetwork:										
Republican: Mays					1,139			1,139		1,139
Nonnetwork, total					1,139			1,139		1,139
Congressional District No. 24:										
Nonnetwork:										
Democrat: Gray										
Republican: Austin					59			59		59
Other parties: Miedow										
Nonnetwork, total					59			59		59
INDIANA										
Congressional District No. 1:										
Nonnetwork:										
Democrat:										
Benjamin	142			702	4,223		702	4,223		4,925
Madden	132			405	4,242		405	4,379		4,784
Morgan	142									
Rogan	84									
Seray	84									
Sekiriz					138			138		138
Republican:										
Haller	95									
Smith	148									
Nonnetwork, total					909			909		909
Congressional District No. 2:										
Nonnetwork:										
Democrat:										
Benjamin	142			702	4,223		702	4,223		4,925
Madden	132			405	4,242		405	4,379		4,784
Morgan	142									
Rogan	84									
Seray	84									
Sekiriz					138			138		138
Republican:										
Haller	95									
Smith	148									
Nonnetwork, total					909			909		909
Congressional District No. 3:										
Nonnetwork:										
Democrat:										
Benjamin	142			702	4,223		702	4,223		4,925
Madden	132			405	4,242		405	4,379		4,784
Morgan	142									
Rogan	84									
Seray	84									
Sekiriz					138			138		138
Republican:										
Haller	95									
Smith	148									
Nonnetwork, total					909			909		909
Congressional District No. 4:										
Nonnetwork:										
Democrat:										
Benjamin	142			702	4,223		702	4,223		4,925
Madden	132			405	4,242		405	4,379		4,784
Morgan	142									
Rogan	84									
Seray	84									
Sekiriz					138			138		138
Republican:										
Haller	95									
Smith	148									
Nonnetwork, total					909			909		909
Congressional District No. 5:										
Nonnetwork:										
Democrat:										
Benjamin	142			702	4,223		702	4,223		4,925
Madden	132			405	4,242		405	4,379		4,784
Morgan	142									
Rogan	84									
Seray	84									
Sekiriz					138			138		138
Republican:										
Haller	95									
Smith	148									
Nonnetwork, total					909			909		909
Congressional District No. 6:										
Nonnetwork:										
Democrat:										
Benjamin	142			702	4,223		702	4,223		4,925
Madden	132			405	4,242		405	4,379		4,784
Morgan	142									
Rogan	84									
Seray	84									
Sekiriz					138			138		138
Republican:										
Haller	95									
Smith	148									
Nonnetwork, total					909			909		909
Congressional District No. 7:										
Nonnetwork:										
Democrat:										
Benjamin	142			702	4,223		702	4,223		4,925
Madden	132			405	4,242		405	4,379		4,784
Morgan	142									
Rogan	84									
Seray	84									
Sekiriz					138			138		138
Republican:										
Haller	95									
Smith	148									
Nonnetwork, total					909			909		909
Congressional District No. 8:										
Nonnetwork:										
Democrat:										
Benjamin	142			702	4,223		702	4,223		4,925
Madden	132			405	4,242		405	4,379		4,784
Morgan	142									
Rogan	84									
Seray	84									
Sekiriz					138			138		138
Republican:										
Haller	95									
Smith	148									
Nonnetwork, total					909			909		909
Congressional District No. 9:										
Nonnetwork:										
Democrat:										
Benjamin	142			702	4,223		702	4,223		4,925
Madden	132			405	4,242		405	4,379		4,784
Morgan	142									
Rogan	84									
Seray	84									
Sekiriz					138			138		138
Republican:										
Haller	95									
Smith	148									
Nonnetwork, total					909			909		909
Congressional District No. 10:										
Nonnetwork:										
Democrat:										
Benjamin	142			702	4,223		702	4,223		4,925
Madden	132			405	4,242		405	4,379		4,784
Morgan	142									
Rogan	84									
Seray	84									
Sekiriz					138			138		138
Republican:										
Haller	95									
Smith	148									
Nonnetwork, total					909			909		909
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Benjamin	142			702	4,223		702	4,223		4,925
Madden	132			405	4,242		405	4,379		4,784
Morgan	142									
Rogan	84									
Seray	84									
Sekiriz					138			138		138
Republican:										
Haller	95									
Smith	148									
Nonnetwork, total					909			909		909
Congressional District No. 12:										
Nonnetwork:										
Democrat:										
Benjamin	142			702	4,223		702	4,223		4,925
Madden	132			405	4,242		405	4,379		4,784
Morgan	142									
Rogan	84									
Seray	84									
Sekiriz					138			138		138
Republican:										
Haller	95									
Smith	148									
Nonnetwork, total					909			909		909
Congressional District No. 13:										
Nonnetwork:										
Democrat:										
Benjamin	142			702	4,223		702	4,223		4,925
Madden	132			405	4,242		405	4,379		4,784
Morgan	142									
Rogan	84									
Seray	84									
Sekiriz					138			138		138
Republican:										
Haller	95									
Smith	148									
Nonnetwork, total					909			909		909
Congressional District No. 14:										
Nonnetwork:										
Democrat:										
Benjamin	142			702	4,223		702	4,223		4,925
Madden	132			405	4,242		405	4,379		4,784
Morgan	142									
Rogan	84									
Seray	84									
Sekiriz					138			138		138
Republican:										
Haller	95									
Smith	148									
Nonnetwork, total					909			909		909
Congressional District No. 15:										
Nonnetwork:										
Democrat:										
Benjamin</										

Nonnetwork total	185	2,060	224	2,060	2,284
Congressional District No. 3:					
Nonnetwork:	140				
Democrat: Brademas	10				
Republican: Newman	4	238		238	238
Nonnetwork total	140	238		238	238
Congressional District No. 4:					
Nonnetwork:	45				
Democrat: Roush					
Republican:					
Bloom	15	813	813	813	1,480
Hayes	45				
King	15	789		884	1,325
Salis	57	6,055	1,090	6,055	7,745
Nonnetwork total	45	7,657	2,818	7,732	10,550
Congressional District No. 5:					
Nonnetwork:	20				
Republican: Harris					
Nonnetwork total	20				
Congressional District No. 6:					
Nonnetwork:					
Democrat: Norman			50	50	50
Nonnetwork total			50	50	50
Congressional District No. 7:					
Nonnetwork:					
Democrat:					
Hengst	30				
Higgins	25	625	574	625	1,199
Nonnetwork total	60	625	574	625	1,199
Congressional District No. 8:					
Nonnetwork:					
Republican: Zion	28				
Nonnetwork total	28				

TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>INDIANA—Continued</b>									
Congressional District No. 9:									
Nonnetwork:									
Democrat: Hamilton	5	7							
Republican:									
Johnson	5	5							
Kissling	336	6							
Sheets	5	7							
Nonnetwork total	351	25							
Congressional District No. 10:									
Nonnetwork:									
Republican: Dennis									
Nonnetwork total									
Congressional District No. 11:									
Network:									
Democrat: Jacobs	3								
Network total	3								
Nonnetwork:									
Republican:									
Burton				\$13,660			\$13,660		\$13,660
Hulme				23,493			23,493		23,493
Nonnetwork total				27,153			27,153		37,153
Network and nonnetwork:									
Democrat: Jacobs									
Republican:									
Burton				13,660			13,660		13,660
Hulme				23,493			23,493		23,493
Network and nonnetwork total				27,153			27,153		37,153
<b>KANSAS</b>									
Congressional District No. 1:									



TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements				Total charges for time announcements			
	Television	Radio	Cable television	Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>KENTUCKY—Continued</b>											
<b>Congressional District No. 3:</b>											
Nonnetwork:											
Democrat:											
Baker	5	7									
Mazzoli	5	8									
Republican:											
Crimlin	5	7			\$182				\$182		\$182
Kaslin	5	8									
Nonnetwork total	26	30			182				182		182
<b>Congressional District No. 4:</b>											
Nonnetwork:											
Democrat:											
Juskewicz	5	7									
Rogers	5	8									
Surber	4	6									
Republican: Snyder	5	9			40				40		40
Nonnetwork total	19	30			40				40		40
<b>Congressional District No. 5:</b>											
Nonnetwork:											
Democrat:											
Abner	15	28							28		28
Willis	30	16							16		16
Werthgton	15	16							16		16
Republican: Carlier	30	30									
Nonnetwork total	90	90			44				44		44
<b>Congressional District No. 6:</b>											
Nonnetwork:											
Democrat:											
Breckinridge	62	284		\$3,656	2,264			\$3,656	2,264		\$5,920
King	62	37		3,161	1,386			3,161	1,386		5,187
Ward	37	37									
Republican: [illegible]	44	44		130	50			130	50		180
Nonnetwork total	211	411		3,286	2,314			3,286	2,314		5,600

Nonnetwork total	56	375	7,300	5,051	7,300	5,051	13,050
Congressional District No. 7:							
Nonnetwork:							
Democrat:							
Perkins				15			15
Smith				93			93
Nonnetwork total				108			108
LOUISIANA							
Congressional District No. 2:							
Nonnetwork:							
Democrat:							
Hillary	34						128
Smith	50			52			52
Nonnetwork total	64			52			180
Congressional District No. 3:							
Nonnetwork:							
Democrat:							
Adair	20		41,229	125			125
Baird	94			6,467			6,467
Burke	5				41,229		
Montgomery	70		11,916	4,753			4,753
Cubitt	21		1,500	34	11,916		11,916
Thompson				322	1,500		1,500
Wadman	5		27,727	6,735	27,727		6,735
Republican: Freeman				245			245
Nonnetwork total	10	401	82,372	18,686	82,372	18,686	101,058
Congressional District No. 4:							
Nonnetwork:							
Democrat: Waggoner					180		
Nonnetwork total					180		
Congressional District No. 5:							
Nonnetwork:							
Democrat:							
Brown			12,342	5,446			5,446
Paseman			3,607	1,113	14,582		14,582
Patterson			1,838	1,156	4,627		4,627
Nonnetwork total			17,787	6,720	21,027		21,027
Nonnetwork total							27,946







MASSACHUSETTS—Continued

	Free time in minutes			Charges for announcements				Time charges and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
<b>MASSACHUSETTS—Continued</b>										
<b>Congressional District No. 7:</b>										
Nonnetwork:										
Democrat:										
MacDonald	10									
Waka	30									
Republican:										
Alberici	10									
Chicklin	10									
Galvin	10									
Hughes	5									
Nonnetwork total	55									
<b>Congressional District No. 8:</b>										
Nonnetwork:										
Democrat: O'Neill	20									
Other parties: Powers		50								
Nonnetwork total	20	50								
<b>Congressional District No. 9:</b>										
Nonnetwork:										
Democrat:										
Cowley	60	15								
Hannigan	60	35								
Hicks	60	35								
Jones	60	150								
Miller	40	33								
Muller	67	33								
Woodhouse	40	15								
Republican:										
Woodhouse	10	33								
Woodhouse	30	15								
Nonnetwork total	487	240								
				15,190	18,765					
				15,190	18,765					

Congressional District No. 1c:									
Nonnetwork:									
Democrat: Shulda	30	280				210			210
Republican: Weeks	30	220				3,885			3,885
Nonnetwork total	60	500				4,095			4,095
MARYLAND									
Congressional District No. 1									
Nonnetwork:									
Democrat:									
Hargreaves	23	30							
Hodson	22	60				40			40
Latta	22	60							
Republican:									
Graco	24								
Mills	6	96				962			962
Nonnetwork total	97	245				1,70			1,70
Congressional District No. 2									
Nonnetwork:									
Democrat:									
Abrams	7					1,918			1,918
Long	8								
Republican:									
Bishop	8								
Conway	7								
Hitchcock	6								
Nonnetwork total	36					1,918			1,918
Congressional District No. 3									
Nonnetwork:									
Democrat:									
Gallagher	21	11				810			810
McQuirk	20								
Surfemes	22					95			95
Republican:									
Morrow	7								
Peters	8								
Pickson	8								
Nonnetwork total	86	11				905			905

TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes				Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television		Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>MARYLAND—Continued</b>												
Congressional District No. 4												
Nonnetwork:												
Democrat:												
Brown	8	21						\$185		\$185		\$185
Chambers	6	28										
Collinson	6											
Forness	7	21						4,291		4,291		4,291
Huggins	6	15						253		253		253
Luthard	7	34						196		196		196
Marshall	7											
Mills	9	31			\$3,340				\$3,340			\$3,340
Moyer	6	19						14		14		14
Sargent	6	28						5,738		5,738		5,738
Schulze	6	34										
Troon	1	21			6,646			1,157	6,646	1,157		7,803
Republican												
Holt	8	38						106		106		140
Morris	6	34										
Taylor	6	34										
Nonnetwork total	85	590			9,986	11,879			9,986	11,997		21,983
Congressional District No. 5:												
Nonnetwork:												
Democrat:												
Broschart	4	98						100		100		100
Conroy	4	19						7,114		7,114		7,114
Emmanuel	4	18						1,088		1,088		1,088
Hagen	4											
Spencer	4	22										
Republican:												
Hogan	4	146			3,140			640	3,140	640		3,790
Musovich	4											
Nonnetwork total	28	307			3,140	8,942			3,140	8,942		12,082
Congressional District No. 6:												

Democrat: .....	1	41	44	148	423	148	423	571
Republican: .....	18							
Nonnetwork: .....	16							
Grange: .....	17							
Manning: .....	16							
Mitchell: .....	16							
Russell: .....	16							
Republican: .....	8							
Adair: .....	8							
Cernich: .....	7							
Shapiro: .....	7							
Nonnetwork total: .....	88							

## Congressional District No. 7:

Democrat: .....	16							
Republican: .....	17							
Nonnetwork: .....	16							
Grange: .....	16							
Manning: .....	16							
Mitchell: .....	16							
Russell: .....	16							
Republican: .....	8							
Adair: .....	8							
Cernich: .....	7							
Shapiro: .....	7							
Nonnetwork total: .....	88							

## Nonnetwork total:

## Congressional District No. 8:

Democrat: .....	18	94						
Republican: .....	18	71						
Nonnetwork: .....	10							
Angeli: .....	10							
Pickel: .....	10							
Republican: .....	10							
Nonnetwork total: .....	30	195						

## Nonnetwork total:

## MAINE

## Congressional District No. 1:

Democrat: .....	155	319						
Republican: .....	35	417						
Nonnetwork: .....	155	131						
Carson: .....	155	90						
Kyras: .....	155							
Porteous: .....	155							
Young: .....	155							
Nonnetwork total: .....	500	995						

## Nonnetwork total:

TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
MAINE—Continued										
Congressional District No. 2.										
Nonnetwork:										
Democrat:										
Maxwell	185	145		\$109	\$53		\$109	\$53		\$162
Volette	185	195	30		85			85		85
Republican:										
Cohan	245	350	60	1,264	90		3,995	90		3,995
Green	235	176		2,577			2,813			2,813
Other parties: Paquette	186	30								
Nonnetwork total	1,030	890	90	3,950	236		6,617	236		6,853
MICHIGAN										
Congressional District No. 1:										
Nonnetwork:										
Democrat: Conyers										
Republican Girardot	196	10								
Other parties: Dixon		6								
		27								
Nonnetwork total	196	43								
Congressional District No. 2:										
Nonnetwork:										
Democrat:										
Brown	20									
Kobus	20	6			340			340		340
Schmitt	20									
Shapiro	20	6								
Stumpen	20	6								
Turner	20	6			3,046			3,046		3,046
Nonnetwork total	120	24			3,386			3,386		3,386
Congressional District No. 3:										
Nonnetwork:										
Democrat: Brignall										
Republican: Brignall		20								
		24								
Nonnetwork total										

<b>Nonnetwork:</b>					
<b>Demo:</b>					
Jamison	95	145	145	145	145
Jones	76				
McGarrach		141	141	141	141
<b>Republican:</b>					
Hutchinson	270	3,803		3,832	3,832
Wich	75	82		82	82
Zeller	207	264	264	4,428	4,692
Nonnetwork total	722	264	264	8,608	8,872
<b>Congressional District No. 5:</b>					
<b>Network:</b>					
Republican: Ford	10				
Network total	10				
<b>Nonnetwork:</b>					
Demo: Nadolsky	30				
Nonnetwork total	30				
<b>Network and nonnetwork:</b>					
Demo: Nadolsky					
Republican: Ford					
Network and nonnetwork total					
<b>Congressional District No. 6:</b>					
<b>Nonnetwork:</b>					
Demo: Carr	32				
Republican:					
Brown	84	7,832	3,643	8,252	11,885
Chamberlain	136	3,077	2,965	3,934	6,829
Miller	12				
Nonnetwork total	264	10,909	6,608	12,216	18,624
<b>Congressional District No. 7:</b>					
<b>Nonnetwork:</b>					
Demo:					
Kropf	5				
Kniffen	5				
Matison	5				
Republican: Riagle	179	15			
Nonnetwork total	190	15			



TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
MICHIGAN—Continued										
Congressional District No. 8:										
Nonnetwork:										
Democrat:										
Hart:	5				\$126			\$126		\$126
Base:	4				162			162		162
Republican: Harvey:	5				168			168		168
Nonnetwork total:	14				456			456		456
Congressional District No. 10:										
Nonnetwork:										
Democrat: Graves:	3	9								
Republican:										
Burnett:	5									
Cederberg:		32			56			56		56
Nonnetwork total:	8	41			56			56		56
Congressional District No. 11:										
Nonnetwork:										
Democrat: Andilla:		265		\$24			\$24			24
Republican: Ruppe:										
Nonnetwork total:		265		24			24			24
Congressional District No. 12:										
Nonnetwork:										
Democrat: O'Hara:	1									
Republican:										
Serotkin:										
Sheridan:										
Nonnetwork total:	1									
Congressional District No. 13:										
Nonnetwork:										
Democrat: Dign:	195	16								
Nonnetwork total:	195	16								

Nonnetwork total.....	56	90	1,400	9,908	1,203
Congressional District No. 15:					
Nonnetwork:					
Democrat:		6	150	150	150
Ferd Lubinski.....		6			
Nonnetwork total.....		12	150	150	150
Congressional District No. 16:					
Nonnetwork:					
Democrat:		21	150	150	150
Diagal.....	180	6			
Riquico.....		6			
Republican: Ruckell.....		6			
Nonnetwork total.....	180	33	150	150	150
Congressional District No. 17:					
Nonnetwork:					
Democrat: Griffiths.....		8			
Republican: Judd.....		6			
Nonnetwork total.....		12			
Congressional District No. 18:					
Nonnetwork:					
Democrat:					
Burdick.....	16				
Brown.....	16				
Coppel.....	16				
Gray.....	16	558		558	558
Hartlin.....	16	668		668	668
Ruch.....	16				
Robeson.....	16				
Republican: Hubel.....		1,310		1,310	1,310
Nonnetwork total.....	312		3,486	3,486	12,486
Congressional District No. 19:					
Nonnetwork:					
Republican:					
Bromfield.....	28		2,486	2,486	2,486
McDonald.....	48		6,473	6,473	6,473
Nonnetwork total.....	74		11,959	11,959	11,959

TABLE 4.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued


	Free  in minutes			Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>MINNESOTA</b>											
Congressional District No. 3:											
Nonnetwork:											
Democrat: Bell		15							\$105		\$105
Republican:											
Freund	130	25			\$210				210		210
Schaefer		15									
Other parties: Wright		15									
Nonnetwork total	130	70			210				315		315
Congressional District No. 5:											
Network:											
Democrat: Fraser	30										
Network total	30										
Nonnetwork:											
Democrat: Fraser	180	30									
Republican: Davison		15									
Other parties:											
Priest		15									
Suby		15									
Nonnetwork total	180	75									
Network and nonnetwork:											
Democrat: Fraser											
Republican: Davison											
Other parties:											
Priest											
Suby											
Network and nonnetwork total											
Congressional District No. 6:											



TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

Free time in minutes				Charges for announcements			Total charges for time and announcements			
Television	Radio	Cable television		Television	Radio	Cable television	Television	Radio	Cable television	Total
MISSOURI—Continued										
Congressional District No. 6:										
Nonnetwork:										
Democrat:										
Broomfield	152		60	\$16,848	\$100		\$16,848	\$100		\$16,948
Davis	160		60	9,635	1,871		9,635	1,871		11,506
Hines	67			473	248		473	248		721
Lifton	159		60	14,087	4,187		14,142	4,187		18,329
Williams	119				3,780			3,780		3,780
Wilson	69		60	1,530			1,530			1,530
Republican:										
Doda	77		30	269			269			269
Sloan	189		60	21	2,345		21	2,345		2,401
Speers	56									
Nonnetwork, total				1,048	42,961	12,541	42,383	12,676		55,059
Congressional District No. 7:										
Nonnetwork:										
Democrat:										
Nicholson	92		14		47			47		47
Thomas	44		14		93			93		93
Republican:										
Ascroft	147		14	6,942	2,699		6,942	2,699		9,641
Glenn	67		14	202	124		202	124		326
Smith	121		14	1,699	213		1,699	213		1,912
Taylor	17			4,906	2,554		4,906	2,554		7,460
Nonnetwork, total				448	15,148	5,091	15,149	5,091	72	20,262
Congressional District No. 8:										
Nonnetwork:										

[illegible]

TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
MISSISSIPPI—Continued										
Congressional District No. 5:										
Nonnetwork:										
Democrat:										
Andrews.....	3			\$2,663	\$2,536		\$3,308	\$2,779		\$6,087
Barber.....							55			55
Barrfield.....				6,086	3,658		6,186	3,688		9,874
Blackwell.....	3			1,792	1,160		3,919	1,166		5,085
Guice.....	3			9,136	5,636		9,416	5,666		15,082
Ladner.....	3			581	330		896	596		1,492
Patterson.....	3			10,106	8,747		10,683	9,228		19,911
Patton.....							412			412
Penton.....	3			178	462		178	483		661
Stene.....	3			18,580	10,726		21,696	11,711		33,407
Republican:										
Grady.....				397	683		562	679		1,220
Hamblin.....	3			8,179	5,127		8,499	1,142		9,641
Loft.....	3			3,667	1,472		3,957	1,532		5,489
Mertz.....					141		110	286		396
Nonnetwork total.....	30			60,747	36,688		60,747	38,977		107,624
MONTANA										
Congressional District No. 1:										
Nonnetwork:										
Democrat:										
Miller.....	15		50	3,442	1,557		4,048	1,570		5,618
Olson.....	50		30	2,765	731		2,857	731		3,588
Sakaya.....	15			5,496	1,638		5,498	1,638		7,136
Republican:										
Shaw.....	195		15							
Thompson.....										
Nonnetwork total.....	275		95	11,725	3,931		12,408	3,944		16,357
Congressional District No. 2:										
Nonnetwork:										
Democrat: Muehlen.....										
Republican: Farnsworth.....										

<b>Congressional District No. 1:</b>									
Non-network:									
Democrat: Jones	15								
Republican:									
Beaser	15	15							
Howard	25								
Nonnetwork total	30	40							
<b>Congressional District No. 2:</b>									
Non-network:									
Democrat:									
Fountain	15	135							
Lee	15	72							
Republican: Little	15								
Nonnetwork total	45	207	23,536	7,242	24,246	7,242			31,488
<b>Congressional District No. 3:</b>									
Non-network:									
Democrat:									
Edwards	15		1,088	182		182			
Henderson	15	6		408		408			
Nonnetwork total	30	6	1,088	590	1,436	590			2,026
<b>Congressional District No. 4:</b>									
Non-network:									
Democrat:									
Andrews			22,873	3,618		22,873	3,618		26,491
Bullock		10	450	371		450	371		821
Coggins		10	5,334	3,219		5,334	3,219		8,553
Creech		18	16,971	8,640		16,971	8,640		25,611
Graham		10	15,768	1,875		15,768	1,875		17,643
Mabillia				121			121		121
Republican: Newko									
Nonnetwork total		48	61,396	17,844	82,577	17,844			80,421
<b>Congressional District No. 5:</b>									
Non-network:									
Republican: Mizell		74							
Nonnetwork total		74							



TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
NORTH CAROLINA—Continued										
Congressional District No. 6:										
Nonnetwork:										
Democrat: Prayer										
11										
Nonnetwork total										
Congressional District No. 7:										
Nonnetwork:										
Democrat:										
Berry										
McCaughy										
Rose										
Republican:										
Nixon										
Scott										
8										
Nonnetwork total										
Congressional District No. 8:										
Nonnetwork:										
Democrat: Clark										
20										
Nonnetwork total										
Congressional District No. 9:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
Firpo										
Republican:										
Martin										
Yates										
15										
155										
Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										
Democrat:										
Beatty										
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Beatty										
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Martin										
Yates										
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Nonnetwork total										
Congressional District No. 11:										
Nonnetwork:										

NORTH DAKOTA				
Congressional District No. 1				
Nonnetwork	2			
Republican: Andrews	2			
Nonnetwork total				
NEBRASKA				
Congressional District No. 1:				
Nonnetwork:				
Democrat: Berg	14	80		
Republican:				
Strensen	14	40		
Lewis	14	60	603	603
Thoms		46		
Nonnetwork total	42	245	603	603
Congressional District No. 2:				
Nonnetwork:				
Democrat: McColister	28			
Republican: Cooney	28		1,421	592
Nonnetwork total	56		1,421	592
Congressional District No. 3:				
Nonnetwork:				
Democrat:				
Fitzgerald	14			
Reeves	14			
Republican: Martin		60		
Nonnetwork total	28	60		
NEW HAMPSHIRE				
Congressional District No. 1:				
Nonnetwork:				
Democrat:				
Chaplain	18	610		
Morrow	18	400	3,008	3,008
Republican: Wynn	15	45	82	82
Nonnetwork total	51	1,055	3,090	3,090
Congressional District No. 2:				
Nonnetwork:				
Democrat: Officer	5			
Republican: Cleveland	5		75	75
Nonnetwork total	10		103	103

TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
NEW JERSEY										
Nonnetwork:										
Democrat:										
Adamsky						5382			5382	\$382
Boys						5,034			5,034	5,034
Nonnetwork total						5,396			5,396	5,396
Congressional District No. 9:										
Nonnetwork:										
Democrat: Helms	38					12			12	12
Nonnetwork total	38					12			12	12
Congressional District No. 10:										
Nonnetwork:										
Democrat:										
Hart	48	39				2,937			2,937	2,937
Kernan	48									349
Richardson	48	20				9,611			9,611	9,611
Rollins	8	16								
Nonnetwork total	152	65				12,917			12,917	12,917
Congressional District No. 12:										
Nonnetwork:										
Democrat: English						199			199	199
Nonnetwork total						199			199	199
Congressional District No. 13:										
Nonnetwork:										
Democrat: Herzfeld		25				559			559	559
Republican:										
Koehn Dwyer		25				409			409	409
Marzulli		25				1,596			1,596	1,596
Weller						35			35	35
Nonnetwork total		75				2,599			2,599	2,599
Congressional District No. 14:										
Nonnetwork:										

14	600	600	600
15	600	600	600
15	3	3	3
15	3	3	3
20	755	755	755
Nonnetwork total			
NEW MEXICO			

## Congressional District No. 1:

Democrat:	182	929	541	929	541	1,428
Alford	18	1,120	1,120	6,079	1,203	7,299
Garage	18	66	10,109	10,109	4,595	14,694
Granger	18	66	10,109	10,109	15	10,124
Sanity	18	15	15	15	15	15
Stratton	18	15	15	15	15	15
Williams	18	87	87	87	87	87
Republican:	18	56	68	10	68	78
Lynn	18	10	10	10	10	10
Martinez	18	10	10	10	10	10
Nonnetwork total	126	329	17,117	10	6,624	23,751

## Congressional District No. 2:

Democrat:	55	29	601	601	601	601
Democrat: Russell	18	149	109	109	109	175
Republican:	18	193	29	29	29	29
Parker	18	397	58	58	58	58
Prescott	18	397	58	58	58	58
Nonnetwork total	18	397	58	58	58	58

## NEVADA

## Congressional District No. 1:

Democrat:	35	4,159	2,282	13,556	2,455	16,011
Baring	20	152	18,982	28,849	3,684	23,863
Billey	10	135	135	135	135	135
Brooks	10	135	135	135	135	135
Republican:	5	5	5	5	5	5
Burns	5	5	5	5	5	5
Edwards	5	5	5	5	5	5
Goodin	5	5	5	5	5	5
Markum	5	5	5	5	5	5
Towell	5	5	5	5	5	5
Nonnetwork total	65	322	23,061	5,143	40,405	45,894

TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>NEW YORK</b>											
Congressional District No. 1:											
Nonnetwork:											
Democrat: Pike...	84	7									
Nonnetwork total...	84	7									
Congressional District No. 3:											
Nonnetwork:											
Democrat:											
Gale...		120			\$1,500				\$1,500		\$1,500
Chernomus...		120									252
Mrazek...		120			252				252		252
Nonnetwork total...		360			1,764				1,764		1,764
Congressional District No. 4:											
Nonnetwork:											
Republican: Lask...	155	20									
Nonnetwork total...	155	20									
Congressional District No. 6:											
Nonnetwork:											
Democrat: Wolff...		44									
Nonnetwork total...		44									
Congressional District No. 7:											
Nonnetwork:											
Democrat: Friedman...					252				252		252
Nonnetwork total...					252				252		252
Congressional District No. 8:											
Nonnetwork:											
Democrat: Rosenthal...	10										
Nonnetwork total...	10										
Congressional District No. 9:											
Nonnetwork:											
Democrat: ...	50	20									

Congressional District No. 10:				
Nonnetwork:				
Democrat: Ellegren	100			
Other parties: Bank	15			
Nonnetwork total	115			
Congressional District No. 11:				
Nonnetwork:				
Democrat: Bracco	28			
Democrat: Jaleba	28			
Nonnetwork total	56			
Congressional District No. 12:				
Nonnetwork:				
Democrat: Chispoloma	70			
Nonnetwork total	70			
Congressional District No. 13:				
Nonnetwork:				
Democrat: Powell	15	1	65	65
Democrat: Samuel	15			
Nonnetwork total	30	1	65	65
Congressional District No. 14:				
Network:				
Democrat: Lowenstein	7			
Network total	7			
Nonnetwork:				
Democrat:				
Gross	10			
Lowenstein	72	20	2,082	2,382
Reentry	18		2,683	2,918
Nonnetwork total	92	20	5,775	6,300
Network and nonnetwork:				
Democrat:				
Gross				
Lowenstein			2,082	2,382
Reentry			2,683	2,918
Network and nonnetwork total			5,775	6,300

TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>NEW YORK—Continued</b>									
Congressional District No. 16:									
Nonnetwork:									
Democrat:									
Calkins	40								
Holtzman	16	30							
O'Donnell	16	30							
Nonnetwork total	72	60							
Congressional District No. 17:									
Nonnetwork:									
Democrat: Murphy	30								
Republican: Bolandine									
Other parties: Kopperman		135							
Nonnet total	30	135							
Congressional District No. 18:									
Nonnetwork:									
Democrat: Koch	155	138							
Republican: Langley									
Other parties: Finch									
Nonnetwork total	155	138							
Congressional District No. 19:									
Nonnetwork:									
Democrat:									
Ragall	190	60							
Wingate	50	30							
Other parties: Washington									
Nonnetwork total	240	90							
Congressional District No. 20:									
Nonnetwork:									
Democrat:									
Auer	290	293							
Bren	70	101							
Lorrey									
Other parties:									





TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
NEW YORK—Continued										
Congressional District No. 25:										
Nonnetwork:										
Republican: Fish		44								
Nonnetwork total		44								
Congressional District No. 26:										
Nonnetwork:										
Republican: Gilman		143	75		\$2,491			\$2,600		\$2,600
Other parties: Rapkin		148	60		2,608			2,608		2,608
Nonnetwork total		291	135		5,099			5,208		5,208
Congressional District No. 28:										
Nonnetwork:										
Democrat: Stratton	160	15								
Nonnetwork total	160	15								
Congressional District No. 30:										
Nonnetwork:										
Republican:										
Laughland	29			\$226	677		220	677		897
McEwen	29	6								
Nonnetwork total	58	6		220	677		220	677		897
Congressional District No. 31:										
Nonnetwork:										
Democrat: Casale		40								
Republican:										
Boahert	13	320		160	93		160	93		253
Buckley	13	473		3,747	2,901		3,747	2,901		6,648
DeFene	13	401		6,674	3,337		6,674	3,337		10,011
Mitchell	13	330		3,997	2,792		3,997	2,792		6,789
Nonnetwork total	52	1,564		14,578	9,123		14,578	9,123		23,701
Congressional District No. 34:										
Nonnetwork:										

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TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
OHIO—Continued										
Congressional District No. 9:										
Nonnetwork:										
Republican: Sommers							\$675			\$675
Nonnetwork total							675			675
Congressional District No. 10:										
Nonnetwork:										
Democrat:										
Craig	20	94	56	\$174	\$628		174	628		802
Wheeler	24	96								
Republican:										
Brewer	20	90		2,421	120		2,421	120		2,541
Miller	15	36			155			155		155
Nonnetwork total	79	304	56	2,595	863		2,595	863		3,458
Congressional District No. 11:										
Nonnetwork:										
Democrat: Crowe					62			62		62
Nonnetwork total					62			62		62
Congressional District No. 14:										
Nonnetwork:										
Democrat:										
Lambert				285	41		285	41		326
Selberling					189			189		189
Nonnetwork total				285	230		285	230		515
Congressional District No. 15:										
Nonnetwork:										
Democrat:										
McDole					210			210		210
Sullivan					907			1,262		1,262
Nonnetwork total					1,177			1,502		1,502

Democrat:	Freedom	1,600	2,486	1,600	2,486	4,086
Democrat:	Musser				846	846
Republican:	Maloney		942		942	942
Republican:	Regula		940		940	940
Nonnetwork total		1,600	5,134	1,600	5,134	6,734

## Congressional District No. 17:

Democrat:	Beck	3	690		690	690
Democrat:	Breithaupt		213		213	213
Republican:	Johansen	3	790		790	790
Republican:	Ashbrook	3				
Republican:	White	3	184		184	184
Nonnetwork total		12	1,877		1,877	1,877

## Congressional District No. 18:

Democrat:	Hays	15	48		48	48
Nonnetwork total		15	48		48	48

## Congressional District No. 19:

Democrat:	Carney	18	3,468	3,719	3,468	7,187
Democrat:	McLaughlin	25	2,653	8,271	2,653	18,324
Republican:	Parr	14				
Republican:	Schreckengast	14				
Nonnetwork total		71	11,900	5,521	11,900	17,511

## Congressional District No. 20:

Democrat:	Schawlick	15	110		110	110
Democrat:	Stanton	15	410		410	410
Nonnetwork total		30	520		520	520

TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes		Charges for announcements				Total charges for time and announcements			
	Television	Radio	Television	Radio	Cable television	Radio	Television	Radio	Cable television	Total
<b>OHIO—Continued</b>										
Congressional District No. 21:										
Network:										
Democrat:										
Shaugnessy	15									
Stokes	34	90				600				600
Nonnetwork total...	49	90				600				600
Nonnetwork:										
Democrat:										
Shaugnessy										
Stokes										
Nonnetwork total...										
Network and nonnetwork:										
Democrat:										
Shaugnessy										
Stokes										
Nonnetwork total										
Congressional District No. 23:										
Network:										
Democrat:										
Barrett	19									
Beckis	19									
Kucinich	28	60								
Woolf		60				1,190				1,190
Republican:										
Meredith	19									
Row	19					60				60
Nonnetwork total	104	120				1,250				1,250
<b>OKLAHOMA</b>										
Congressional District No. 1:										
Nonnetwork:										



TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>OREGON</b>											
Congressional District No. 1:											
Nonnetwork:											
Democrat:	38	20			\$743				\$743		\$743
Bader:											
Bunch:	38	189			241				241		241
Republican: Wysl.											
Nonnetwork total:	76	200			984				984		984
Congressional District No. 3:											
Nonnetwork:											
Democrat: Green:		180									
Republican: Walsh:	8	60									
Nonnetwork total:	8	180									
Congressional District No. 4:											
Nonnetwork:											
Democrat:											
Alkins:	32	100									
Hatch:	91	225		380				1,792			1,792
Porter:	32	187			331				331		331
Schultz:	38	103									
Sprague:	32	215		2,263	1,449			2,263	1,449		3,717
Warner:											
Republican:											
Dalbiedt:	232	150		1,603	68			2,780	68		2,848
Singler:	36	141									
Nonnetwork total:	479	1,041		3,951	2,146			6,340	2,146		8,486
<b>PENNSYLVANIA</b>											
Congressional District No. 2:											
Nonnetwork:											
Democrat:											
Mallon:				470	2,915			470	2,915		470
Seaman:											
Nonnetwork total:				470	2,915			470	2,915		2,915

Nonnetwork total.....	8,182	8,182	8,182
Congressional District No. 5:			
Nonnetwork:			
Democrat: Yenger			
Republican:			
Felt	50	50	50
Miller	13,504	13,504	13,504
Wise	2,175	2,175	2,175
Nonnetwork total.....	17,124	17,124	17,124
Congressional District No. 6:			
Nonnetwork:			
Democrat: Yatron	10		
Republican:			
Hayes	348	348	348
Huber			
Other parties: Huell			
Nonnetwork total.....	348	348	348
Congressional District No. 8:			
Nonnetwork:			
Democrat: James	281	281	281
Republican: Allen	162	162	162
Nonnetwork total.....	443	443	443
Congressional District No. 9:			
Nonnetwork:			
Republican:			
Ferry	324	324	324
Hawbaker	4,006	4,006	4,006
Shuster	10,550	10,550	10,550
Nonnetwork total.....	12,600	12,600	12,600
Congressional District No. 11:			
Nonnetwork:			
Democrat: Flood	55		
Republican:			
Ayers	30		
Shutter	15		
Nonnetwork total.....	115	115	115



TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
PENNSYLVANIA—Continued										
Congressional District No. 12										
Nonnetwork:										
Republican, Horowitz		71		\$3,194	\$2,708		\$3,220	\$2,708		\$5,938
Nonnetwork total		71		3,194	2,708		3,220	2,708		5,938
Congressional District No. 13										
Nonnetwork:										
Democrat:										
Camp					120			120		120
Bovarno					1,740			1,740		1,740
Nonnetwork total					1,860			1,860		1,860
Congressional District No. 14										
Network:										
Democrat, Moorhead	3									
Network total	3									
Congressional District No. 15										
Nonnetwork:										
Democrat:										
Haden	130	46			361			361		361
Moorhead		385								
Nonnetwork total	130	430			361			361		361
Congressional District No. 16										
Network and nonnetwork:										
Democrat:										
Haden										
Moorhead					361			361		361
Network and nonnetwork total					361			361		361
Congressional District No. 17										
Nonnetwork:										
Democrat:										
Haden										
Moorhead										
Network and nonnetwork total										

Nonnetwork total									
Congressional District No. 19:									
Nonnetwork:									
Republican: Schneebeli	64			56				56	56
Nonnetwork total	64			56				56	56
Congressional District No. 18:									
Nonnetwork:									
Democrat: Walgreen	31		4,014	220		4,014	220		4,234
Republican: Heinz	375								
Nonnetwork total	31	375	4,014	220		4,014	220		4,234
Congressional District No. 19:									
Nonnetwork:									
Republican:									
Eden			1,106	2,104		2,106	2,104		4,363
Gooding				2,573			2,573		2,573
Nonnetwork total			1,106	4,757		2,106	4,753		6,929
Congressional District No. 20:									
Nonnetwork:									
Democrat: Gaydos	375								
Republican: Popovich	50								
Nonnetwork total	425								
Congressional District No. 21:									
Nonnetwork:									
Democrat:									
Dent				727			727		727
O'Leary				119			119		119
Nonnetwork total				846			846		846
Congressional District No. 22:									
Nonnetwork:									
Democrat: Kozal	31		5,561	439		5,561	439		490
Republican: Conover									5,551
Nonnetwork total	31		5,561	439		5,561	439		5,990

TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements				Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television		Television	Radio	Cable television
<b>PENNSYLVANIA—Continued</b>										
Congressional District No. 23:										
Nonnetwork:										
Democrat:										
Belmont		10			\$16				\$15	
Kasab		120								
Republican:										
Jokanno		106			3,173				3,169	
McCormack		15			1,177				1,167	
Nonnetwork total		251			4,360				4,401	
Congressional District No. 24:										
Nonnetwork:										
Democrat: Neundorff	10									
Republican: Lammhagen					1,36				36	
Nonnetwork total	10				36				36	
Congressional District No. 25:										
Nonnetwork:										
Republican: Myers		60			57				57	
Nonnetwork total		60			57				57	
<b>RHODE ISLAND</b>										
Congressional District No. 1:										
Nonnetwork:										
Democrat: St Germain					63				63	
Republican: Foley		56								
Nonnetwork total		56			63				63	
<b>SOUTH CAROLINA</b>										

Nonnetwork total	25	1,014	631	674	631	1,365
Congressional District No. 4:						
Nonnetwork:						
Democrat: Mann	7					
Nonnetwork total	7					

## Congressional District No. 5:

Nonnetwork:						
Republican: Phillips	5					
Nonnetwork total	5					
Congressional District No. 6:						
Nonnetwork:						
Democrat:						
Ortiz	192	9,915	729	16,036	729	16,940
Jewett	449	11,565	5,688	12,381	5,688	17,929
McMillan	241	834	3,419	2,183	3,417	5,640
Nonnetwork total	8	21,625	9,816	30,460	9,874	40,409

## SOUTH DAKOTA

## Congressional District No. 1:

Nonnetwork:						
Democrat: Overheim	9					
Republican: Vidlerman	10					
Nonnetwork total	15					
Congressional District No. 2:						
Nonnetwork:						
Democrat: Burnett	5					
McKerr	10					
Republican: Auland	30					
Da Marston	40					
Two Hawk	5					
Nonnetwork total	90	12	6,157	4,006	7,380	11,008

TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>1. TENNESSEE</b>									
Congressional District No. 3:									
Nonnetwork:									
Democrat: Sompayrac.....					399			399	
Republican: Butler.....					117			117	
Nonnetwork total.....					216			216	
Congressional District No. 4:									
Nonnetwork:									
Democrat: Evans.....		5			253			253	
Republican: Finney.....		5							
Nonnetwork total.....		10			253			253	
Congressional District No. 5:									
Nonnetwork:									
Democrat:									
Fetter.....	44	49		3310	3,691		1,626	3,794	5,416
Jenkins.....	44	141		12,286	1,409		14,695	1,409	16,104
Shannon.....	14	96							
Republican:									
Adams.....	14	165							
Schles.....	14	110						25	25
Other parties: Galvani.....									
Nonnetwork total.....	130	561		13,695	5,106		16,265	5,208	21,573
Congressional District No. 6:									
Nonnetwork:									
Democrat:									
Anderson.....	49	207		6,920	3,957		6,020	3,507	9,577
Vick.....	19	80							
Witt.....	19	205			3,812			3,969	3,969
Republican: Beard.....	9	150			400			407	407
Other parties: Dess.....	9								
Nonnetwork total.....	105	642		6,098	7,775		6,098	7,873	13,971
Congressional District No. 7:									



TABLE 5.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>TEXAS—Continued</b>									
<b>Congressional District No. 4:</b>									
Nonnetwork									
Democrat: Roberts	10	144			\$75			\$75	
Republican: Pressal									
Nonnetwork total	10	144			75			75	
<b>Congressional District No. 5:</b>									
Nonnetwork									
Democrat:									
Cabot	10								
City	10								
Republican:									
Lyle	19								
Marshall	16								
Sikorski	10								
Steelman	19				125			125	
Nonnetwork total	78	25			125			125	
<b>Congressional District No. 6:</b>									
Nonnetwork									
Democrat:									
Essmyer					150			150	
Pressal					248			248	
Stephenson					125			125	
Teague					83			83	
Nonnetwork total					616			616	
<b>Congressional District No. 7:</b>									
Nonnetwork									
Democrat:									
Basick	10	2		320			350		
Brady	20	2		248			268		
Nonnetwork total	30	4		348			358		
<b>Congressional District No. 8:</b>									
Nonnetwork									
Democrat:									
Kahnert	40	2							

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TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>TEXAS—Continued</b>									
Congressional District No. 15:									
Nonnetwork:									
Democrat: Garza				\$132	\$158		\$215	\$158	
Nonnetwork total				\$132	\$158		\$215	\$158	
Congressional District No. 16:									
Nonnetwork:									
Democrat: White					300			300	
Nonnetwork total					300			300	
Congressional District No. 17:									
Nonnetwork:									
Democrat: Barlsen	13				28			20	
Nonnetwork total	13				20			20	
Congressional District No. 18:									
Nonnetwork:									
Democrat:									
Bonner	7	44			147			147	
Graves	7	43			2,000			2,000	
Jordan	7	149		\$,125	\$,468		\$,125	\$,468	
King	7	31							
Republican:									
Merritt	10	45							
Sargent		45							
Nonnetwork total	50	467		\$,125	\$4,468		\$,125	\$4,468	
Congressional District No. 19:									
Nonnetwork:									
Democrat: Mahon	20								
Nonnetwork total	20								
Congressional District No. 20:									
Nonnetwork:									
Democrat: Willis	20								
Nonnetwork total	20								

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TABLE 5.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
<b>UTAH</b>										
Congressional District No. 1:										
Nonnetwork:										
Republican:										
Carpenter	90	160								\$996
Walshus	90	154		\$475			\$475			1,593
Nonnetwork total	180	314		475	2,589		475	2,589		3,064
Congressional District No. 2:										
Nonnetwork:										
Democrat: Owens		25		365	1,098		365	1,098		1,463
Republican:										
Anderson				1,401	150		1,514	150		1,664
Lloyd		30		200	330		200	330		530
Nonnetwork total		55		1,966	1,578		2,079	1,578		3,657
<b>VIRGINIA</b>										
Congressional District No. 1:										
Nonnetwork:										
Democrat: Downing	140	10								
Nonnetwork total	140	10								
Congressional District No. 4:										
Nonnetwork:										
Democrat: Gibson									77	77
Republican: Daniel									117	117
Nonnetwork total									194	194
Congressional District No. 8:										
Nonnetwork:										
Republican: Butler									270	270
Nonnetwork total									270	270

DEMOCRAT		REPUBLICAN		OTHER PARTIES		TOTAL	
30	16	30	16	30	16	471	471
30	6	30	6	30	6	3,421	3,421
30	16	30	16	30	16	1,308	1,308
30	10	30	10	30	10	535	535
30	16	30	16	30	16	1,308	1,308
30	10	30	10	30	10	535	535
180	74	180	74	180	74	5,200	5,200
Nonnetwork total							
Congressional District No. 9:							
Nonnetwork							
Democrat: Christian							
Nonnetwork total							
Congressional District No. 10:							
Nonnetwork							
Democrat: Miller							
Republican: Broyles							
Nonnetwork total							
VIRGIN ISLANDS							
Congressional District No. 1:							
Nonnetwork							
Democrat:							
Do Lago							
Mancini							
Republican: Schneider							
Nonnetwork total							
VERMONT							
Congressional District No. 1:							
Nonnetwork							
Democrat: Meyer							
Republican: Mallory							
Nonnetwork total							



<b>Congressional District No. 5:</b>					
Nonnetwork:					
Democrat: Hicks	3	3			
Republican: Lowry	3	3			
Nonnetwork total	6	6			
<b>Congressional District No. 7:</b>					
Nonnetwork:					
Democrat: Adams	5	5			
Republican: Freeman	5	5			
Nonnetwork total	10	10			
<b>WISCONSIN</b>					
<b>Congressional District No. 1:</b>					
Nonnetwork:					
Democrat: Aspin	183				
Republican:					
Coleman	7	10	32	32	32
Stern	7	13	144	144	144
Sethaway	7	10	1,062	1,062	1,062
Satterum	7	10	460	460	460
Other parties, Former	38				
Nonnetwork total	28	574	1,698	1,698	1,698
<b>Congressional District No. 2:</b>					
Nonnetwork:					
Democrat: Kastnermeier				4	4
Republican:					
Kelly	45				
Villauer	48				
Other parties, Krohn	13		655	655	655
Nonnetwork total	100		659	659	659
<b>Congressional District No. 3:</b>					
Nonnetwork:					
Democrat:					
Nil	368	47	118	431	793
Short	453	37	1,010	1,802	3,751
Thomson	253	47	2,591	2,986	3,846
Republican:					
Bart	408	47	823	823	1,590
Iger	418	30	1,001	1,001	24
Thomson	133				
Other parties, Ellison					
Nonnetwork total	2,031	208	6,225	6,982	12,031

TABLE 6.—U.S. REPRESENTATIVES—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>WISCONSIN—Continued</b>									
<b>Congressional District No. 4:</b>									
Nonnetwork:									
Democrat:									
Blaschke.....	6	12							
Heinsma.....	6	12							
Waldo.....	6	12							
Zablocki.....	6	12							
Republican: Mrozinski.....	6	12							
Nonnetwork, total.....	30	60							
<b>Congressional District No. 5:</b>									
Nonnetwork:									
Democrat: Reuss.....	555	45							
Republican: Hecks.....	555	5							
Nonnetwork, total.....	555	50							
<b>Congressional District No. 6:</b>									
Nonnetwork:									
Democrat: Adams.....	7	50							
Republican: Steiger.....	7	50							
Other parties: Sifer.....	7	50							
Nonnetwork, total.....	21	100							
<b>Congressional District No. 7:</b>									
Nonnetwork:									
Democrat: Obey.....	86	45		\$4,276			\$5,295		\$5,295
Republican:									
Conroy.....	7	60		5,453	\$2,059		5,453	\$2,059	7,517
O'Keefe.....	86	50		795			5,818		5,818
Nonnetwork, total.....	179	155		10,529	2,059		16,571	2,059	18,630
<b>Congressional District No. 8:</b>									
Nonnetwork:									
Democrat:									
Correll.....	7	90							
La Due.....	7	90			40			40	
Republican:									
Godke.....	7	90		4,544			4,544		5,748
Frederick.....	7	90		315			315		446
Loose.....	7	90		5,965			5,965		6,965

Nonnetwork, total.....		69	593	14,507	2,410	14,507	2,610	17,197
<b>Congressional District No. 9:</b>								
Nonnetwork:								
Democrat: Fink.....	7	25						
Republican:								
Beggs.....	7	25						
Davis.....	7	25						
Reed.....	7	25						
Nonnetwork total.....	28	116						
<b>WEST VIRGINIA</b>								
<b>Congressional District No. 2:</b>								
Nonnetwork:								
Democrat:								
Bell.....	24							
Staggers.....	18							
Republican: Dix.....	24							
Nonnetwork total.....	66							
<b>Congressional District No. 3:</b>								
Nonnetwork:								
Republican: Higgins.....								
Nonnetwork total.....								
<b>Congressional District No. 4:</b>								
Nonnetwork:								
Democrat:								
Hochler.....	74	100						
Hock.....	48							
Lee.....	18	50						
Wells.....	18	40						
Republican:								
Struback.....	9							
Low.....	9							
Neel.....	9							
Nonnetwork total.....	185	235						
<b>WYOMING</b>								
<b>Congressional District No. 1:</b>								
Nonnetwork:								
Democrat: Rencallo.....		115						
Republican:								
Rudd.....	616							
Palmer.....	600							
Nonnetwork total.....	1,331							



TABLE 7.—STATE GOVERNORS—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>ARKANSAS</b>									
Nonnetwork:									
Democrat: Bumpers	84	15		86,205	9576		89,137	\$204	
Republican: Bayback	84	222		6,454	2,487		6,569	2,487	
Nonnetwork total	168	237		12,664	3,173		15,766	3,201	
<b>DELAWARE</b>									
Nonnetwork:									
Democrat: Tribbitt	62	278			5,787		155	5,912	
Republican: Peterson	68	376		2,020	10,898		18,485	11,687	
Other parties:									
Connell	29	30							
Lyndall	29	208							
Subtotal	29	238							
Nonnetwork total	157	894		2,020	16,687		18,640	17,609	
<b>IOWA</b>									
Nonnetwork:									
Democrat: Franczenburg	153	292		23,345	1,059		23,345	1,059	
Republican: Ray	150	214		41,474	16,578		41,474	16,578	
Other parties: Ditty	3,012	248			12		12		
Nonnetwork total	3,413	754		64,819	17,637		64,831	17,637	
<b>ILLINOIS</b>									
Nonnetwork:									
Democrat: Walker	560	1,057		299,267	19,796	\$150	299,597	29,043	\$150
Republican: Ogilvie	541	1,461		573,199	106,746		580,623	104,020	
Other parties:									
DeLoach	18								
Ferry	78	81							
Goyan	48	97							
Latham	45	50							
Manning	15	15							
Trotter	30	30							
Young	18	86							
Nonnetwork total	1,864	2,864		872,466	126,638	\$150	872,666	126,638	\$150

<b>INDIANA</b>									
Nonnetwork:									
Democrat: Welsh	439	978	70	104,659	51,411	216,468	51,457	267,925	
Republican: Bowen	379	865	70	245,890	81,590	259,756	81,715	341,476	
Other parties:									
Campbell	44						85	85	
Hurley	72	214			13		13	13	
Morris	57	176							
Subtotal	173	390			13		98		
Nonnetwork total	991	2,233	140	440,548	133,004	476,224	133,270	609,501	7
<b>KANSAS</b>									
Nonnetwork:									
Democrat: Docking	505	2,096	24	162,494	29,952	162,494	29,977	192,471	
Republican: Kay	505	1,880	24	182,357	7,179	188,845	7,179	196,024	
Other parties: Fisher	400	294					25	25	
Nonnetwork total	1,410	4,250	48	344,851	37,141	351,319	37,181	388,52	
<b>LOUISIANA</b>									
Nonnetwork:									
Democrat: Edwards	167	244		67,288	22,516	72,157	22,751	94,908	
Republican: Treen	204	201		116,660	18,435	126,003	18,666	144,669	
Nonnetwork total	259	445		165,450	39,086	178,293	39,562	217,855	
<b>MISSOURI</b>									
Nonnetwork:									
Democrat: Dowd	195	809	104	177,023	82,388	202,708	82,465	285,173	
Republican: Bond	165	704	43	137,296	73,672	165,163	73,746	238,929	
Other parties: Leonard		99							
Nonnetwork total	360	1,612	147	314,319	156,060	367,891	156,211	524,102	
<b>MONTANA</b>									
Nonnetwork:									
Democrat: Judge	87	585	25	33,167	12,241	37,290	14,354	51,644	
Republican: Smith	117	553	15	18,898	5,798	18,898	5,823	24,721	
Nonnetwork total	204	1,138	40	52,065	18,039	56,188	20,177	76,365	

TABLE 7.—STATE GOVERNORS—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
NORTH CAROLINA										
Nonnetwork:										
Democrat: Bowles.....	653	364		\$168,319	\$25,769		\$163,319	\$26,908		\$190,312
Republican: Holshouser.....	568	466		56,352	11,283		56,352	11,371		67,723
Other parties: Petty John.....	433	411	30							
Nonnetwork total.....	1,654	1,273	30	217,271	38,043		219,671	38,364		258,035
NORTH DAKOTA										
Nonnetwork:										
Democrat: Link.....	81	246		19,885	5,678		22,633	5,678		28,311
Republican: Larsen.....	67	201		13,564	9,010		14,606	11,449		26,055
Nonnetwork total.....	148	447		33,449	14,686		37,239	17,127		54,366
NEW HAMPSHIRE										
Nonnetwork:										
Democrat: Crowley.....	25	507	22		13,842	\$17	944	13,842	\$17	14,803
Republican: Thomson.....	25	508		150	7,627		2,738	7,627	50	10,415
Other parties: McLane.....	25	670			7,802		1,163	7,802		8,965
Nonnetwork total.....	75	1,685	22	150	29,271	17	4,845	29,271	67	34,183
PUERTO RICO										
Nonnetwork:										
Democrat: Hernandez.....	224	238		163,896	50,852		202,243	182,955		305,208
Republican: Ferré.....	224	218		198,034	106,156		224,864	207,550		432,214
Other parties:										
Colon.....	224	218		140	9,106		10,945	10,353		21,298
Gonzalez.....	224	218			522		3,600	4,740		8,340
Landing.....	224	218		3,548	2,317		6,789	2,317		9,106
Nazario.....	224	218		280	7,667		580	8,192		8,772
Subtotal.....	896	872		3,960	19,612		21,314	25,602		47,516
Nonnetwork total.....	1,344	1,329		365,940	176,620					

<b>RHODE ISLAND</b>									
Nonnetwork:									
Democrat: Noel	179	646	61,380	21,080	75,154	21,422	50,718		
Republican: De Simone	130	528	76,297	28,703	102,912	26,813	108,725		
Other parties: Varone	118	192							
Nonnetwork total	427	1,366	137,677	49,783	158,066	48,235	208,308		
<b>SOUTH DAKOTA</b>									
Nonnetwork:									
Democrat: Koelp	147	485	13,522	4,430	13,783	4,430	18,213		
Republican: Thompson	147	628	12,210	6,977	15,401	6,977	22,468		
Nonnetwork total	294	1,111	25,732	11,407	29,274	11,407	40,681		
<b>TEXAS</b>									
Network:									
Republican: Grover	3			263		263	263		
Other parties: Muniz									
Network total	3			263		263	263		
Nonnetwork:									
Democrat: Briscoe	75	401	149,179	24,787	157,866	43,231	201,097		
Republican: Grover	203	621	176,633	36,246	178,361	36,361	214,712		
Other parties:									
Fikes	48	225		18		78	78		
Leonard	56	131							
Muniz	207	292	2,702	6,320	3,016	6,374	9,380		
Subtotal	311	648	55	6,338	3,016	6,452	9,468		
Nonnetwork total	589	1,670	328,514	67,371	339,242	86,034	425,277		
Network and nonnetwork:									
Democrat: Briscoe			149,179	24,787	157,866	43,231	201,097		
Republican: Grover			176,633	36,508	178,361	36,614	214,975		
Other parties:									
Fikes				18		78	78		
Leonard									
Muniz			2,702	6,320	3,016	6,374	9,380		
Subtotal			2,702	6,338	3,016	6,452	9,468		
Network and nonnetwork total			328,514	67,634	339,243	86,297	425,540		

TABLE 7.—STATE GOVERNORS—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLE CASTING—Continued

	Free time in minutes			Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>UTAH</b>											
Nonnetwork:											
Democrat: Rampton	132	134		\$30,537	\$4,174			\$30,537	\$4,174		\$34,711
Republican: Strike	132	251		25,742	2,114			30,307	2,114		32,421
Nonnetwork total	264	385		60,319	6,288			60,344	6,288		67,132
<b>VERMONT</b>											
Nonnetwork:											
Democrat: Salmon	106	676		10,041	4,873			10,041	4,873		14,914
Republican: Hackett	186	388		4,983	4,471			4,983	4,499		9,482
Other parties: Sanders	106	283									
Nonnetwork total	318	1,347		15,024	9,344			15,024	9,372		24,396
<b>WASHINGTON</b>											
Nonnetwork:											
Democrat: Rosellini	311	517		39,651	36,607	\$85		41,240	37,143	\$137	78,520
Republican: Evans	289	455	30	25,949	29,020	70		26,509	29,044	70	55,723
Other parties:											
David	61	15									
Gould	68	680		2,075	2,029			2,075	2,029		4,104
Killman	55	45									
Subtotal	184	720		2,075	2,029			2,075	2,029		4,104
Nonnetwork total	784	1,692	30	67,675	67,656	135		69,924	69,216	207	138,347
<b>WEST VIRGINIA</b>											
Nonnetwork:											
Democrat: Rockefeller	37	776	30	76,429	51,981	800		101,469	66,893	800	169,162
Republican: Moore		98	300	56,542	46,273			74,093	46,460		120,493
Nonnetwork total	37	868	330	132,971	98,254	800		175,472	113,343	800	289,655

Free time in minutes			Charges for announcements			Total charges for time and announcements			
Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
ARKANSAS									
Nonnetwork:									
Democrat:									
Bumpers	60	75	\$17,686	\$4,206		\$20,411	\$4,322		\$24,733
Davis	60	67	483	79		1,928	472		2,400
Gibbs	30	70							
Harbour	30	120	4,102	1,409		6,867	1,636		8,623
Hurst	60	375	3,556	1,450		7,043	1,450		8,533
Nonnetwork total	246	787	25,877	7,144		38,369	7,920		44,289
DELAWARE									
Network:									
Republican Peterson									
Network total	1								
Nonnetwork:									
Democrat:									
McGinnis	200			508			508		508
Tribbitt	30			237			237		237
Womack	238			2,439			2,439		2,439
Subtotal	468			3,184			3,184		3,184
Republican:									
Buckson	375		413	8,715		413	8,715		9,128
Peterson	57	330	415	10,864		2,430	10,947		13,377
Subtotal	57	705	828	19,662		2,843	19,662		22,505
Nonnetwork total	57	1,165	828	22,763		2,843	22,846		25,689
Network and nonnetwork:									
Democrat:									
McGinnis				508			508		508
Tribbitt				237			237		237
Womack				2,439			2,439		2,439
Subtotal				3,184			3,184		3,184
Republican:									
Buckson			413	8,715		413	8,715		9,128
Peterson			415	10,864		2,430	10,947		13,377
Subtotal			828	19,579		2,843	19,662		22,505
Network and nonnetwork total			828	22,763		2,843	22,846		25,689

TABLE 2.—STATE GOVERNORS—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Transmissions	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
IOWA										
Nonnetwork:										
Democrat:										
Frasenburgh	164	78			\$333			\$333		\$333
Lynch	18									
Topsont	192	181			1,549			1,634		1,634
Subtotal	374	277			1,882			1,967		1,967
Republican:										
Jacon	24	14								
Ray	92	39			40			40		40
Subtotal	116	53			40			40		40
Other parties: Dilley	5									
Nonnetwork total	485	330			1,922			2,007		2,007
ILLINOIS										
Nonnetwork:										
Democrat:										
Dixon		55								
Freen		55			307			307		307
Shannon	385	846		\$74,629	24,247		\$80,619	24,247		104,866
Walker	282	1,311		208,046	797		208,046	797		208,843
Subtotal	647	2,267		282,675	25,351		288,665	25,351		314,016
Republican:										
Mannix	29	446								
Ogline	50	140		\$7,064	431		17,784	466		18,250
Subtotal	79	586		17,064	435		17,784	470		18,254
Nonnetwork total	726	2,853		299,739	25,786		306,449	25,821		332,270
INDIANA										
Nonnetwork:										

<i>Covered</i>	51	1,035	797	1,035	797	5,728
<i>Uncovered</i>	60	160				
<b>Subtotal</b>						
<b>Republican:</b>						
Brown	51	114	1,308	1,308	1,308	1,308
Gutwies	51	68	269	269	269	269
Hill	12					
Peasey	21		460	460	460	460
<b>Subtotal</b>	135	174	1,577	1,577	1,577	2,037
<b>Other parties:</b>						
Campbell						
Harley		54			198	198
<b>Subtotal</b>		54			198	198
<b>Nonnetwork total</b>	224	367	5,395	2,370	2,568	7,963
<b>KANSAS</b>						
<b>Nonnetwork:</b>	32		1,150		1,150	1,150
<b>Democrat: Docking</b>						
<b>Republican:</b>						
Anderson	315	328	15,924	2,920	15,924	2,985
Frisbie	315	261	23,364	7,355	23,364	7,410
Kay	315	247	68,613	1,400	73,722	30,794
Shultz	368	247	5,112	2,444	3,112	8,177
<b>Subtotal</b>	1,254	1,123	112,033	21,122	115,652	21,353
<b>Other parties: Fisher</b>	30					
<b>Nonnetwork total</b>	1,316	1,123	112,033	22,272	115,652	22,503
<b>LOUISIANA</b>						
<b>Nonnetwork:</b>						
<b>Democrat:</b>						
Duffy		20		174		174
Edwards		20		1,654		1,654
<b>Subtotal</b>		20		1,828		1,828
<b>Republican: Treon</b>						
<b>Nonnetwork total</b>		20		2,728		2,728
<b>Nonnetwork total</b>		20		4,556		4,556



TABLE 2.—STATE GOVERNORS—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes				Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television		Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>MISSOURI</b>												
Nonnetwork:												
Democrat:												
Baker	57	203										
Blackwell	213	200	14		\$18,482	\$1,103	\$25		\$18,482	\$1,198	\$25	\$19,705
Dowd	183	396	600		90,516	20,703			106,472	20,800		127,272
Morris	212	450	74		119,211	30,649			119,211	30,678		150,169
Newbury												
Noel	180	353	134		2,043	2,614	12		2,133	2,614	12	4,759
Schultz	30	69										
Sims	212	420	14		12,621	4,767			16,621	4,767		17,388
Tessdale												
Subtotal	1,087	2,091	836		242,873	60,036	37		258,919	60,357	37	319,313
Republican:												
Vond	192	606	14		22,581	5,339			41,331	5,498		46,787
Burns	147	297	14									
Euge	57	140	14									
King	120	385	14			386			1,747	386		2,133
McClary	160	450	14		2,017	957			16,718	957		17,675
Subtotal	636	1,878	70		24,598	6,676			59,796	6,789		66,585
Other parties:												
Leonard	50	70										
Miller	20	26										
Thomas	38	112							195			195
Thomas W.	57	34	14									
Subtotal	157	236	14						195			195
Nonnetwork total	1,880	4,265	920		267,471	66,712	37		318,910	67,156	37	386,103
<b>MONTANA</b>												
Nonnetwork:												
Democrat:												
DeWitt		177			2,779	1,196						
Howard		175				12						
Judge		385			10,743	6,475						
Shankweiler		25	15						12,817	6,483		
Subtotal		661	15		13,522	7,683						
Republican:												
Subtotal									26,119			

Nonnetwork	110	15	5,872	4,108	2,108	6,532
Subtotal	325		7,142	2,849	2,849	9,991
Nonnetwork total	986	30	20,664	10,534	10,684	33,855

## NORTH CAROLINA

Nonnetwork	559		236,501	54,743	51,955	307,121
Democrat:						
Bowles	478				252,168	307,121
Dickson	180	34		14	48	44
Hawkins	195	30		31		31
Hobby	225	29	30,213	5,939	5,939	36,183
Laggett	225	4				
Morton	33	6	840		5,680	5,749
Tyler	475	1,330	242,196	71,818	254,975	327,245
Subtotal	1,811	1,932	509,750	132,536	133,292	676,328
Republican:						
Chappell	180				63,104	73,613
Gardner	480	203	50,237	10,509	10,509	96
Gibson	195	4	42,005	10,514	45,724	54,290
Holmes	477					
Subtotal	1,332	489	92,242	21,119	106,828	129,999

Other parties:						
Burleson	180					
Pettyjohn	225					
Subtotal	405					
Nonnetwork total	3,548	2,401	601,992	153,655	651,862	806,325

## NORTH DAKOTA

Nonnetwork	35	24	186	323	323	509
Democrat:						
Burns	1					
Huelle	30	30		47	47	47
Link	4					
Sinner						
Subtotal	70	54	186	360	370	556
Republican:						
Larsen	67	152	11,343	5,401	11,233	17,294
McCarthy	21	25	6,676	2,514	8,479	10,993
Subtotal	88	177	18,019	6,345	19,812	28,277
Nonnetwork total	158	231	18,205	6,715	19,996	28,03



NAME	WT	100	10	WT	100	10	WT	100	10	WT	100	10
Thompson	70	330	10	4,385	1,944	100	4,385	1,944	100	4,385	1,944	100
Subtotal												
Nonnetwork total	80	330	10	4,385	2,088	100	4,385	2,088	100	4,385	2,088	100
TEXAS												
Network:												
Democrat:												
Barnes												
Brison												
Farnfield												
Smith												
Subtotal												
Nonnetwork:												
Barnes	229	529	28	58,082	65,085	25	58,439	65,423	25	58,439	65,423	25
Brison	245	542	28	301,175	340,940	25	323,489	361,792	25	323,489	361,792	25
Farnfield	377	831	28	108,165	121,686	25	126,377	141,511	25	126,377	141,511	25
Smith	54	121	28	700	786	25	700	786	25	700	786	25
Subtotal	322	475	28	155,104	175,556	25	171,725	193,510	25	171,725	193,510	25
Subtotal	1,278	2,699	84	633,226	724,121	25	724,121	812,683	25	724,121	812,683	25
Republican:												
Fay	125	130		20,503	5,792		20,503	5,792		20,503	5,792	
Gower	185	277		52,980	2,055		52,980	2,055		52,980	2,055	
Hall	40	128		720	295		720	295		720	295	
McHenry	50	150		42,587	6,146		42,587	6,146		42,587	6,146	
Pickett	50	150		42,587	6,146		42,587	6,146		42,587	6,146	
Reagan	36	945		7,550	606		7,550	606		7,550	606	
Subtotal	548	1,040		124,340	15,527		124,340	15,527		124,340	15,527	
Other Parties:												
Elmer	14				45			45			45	
Blair	14				286			286			286	
Subtotal	14				331			331			331	
Nonnetwork total	1,840	3,739	84	757,566	310,546	25	361,995	378,541	25	361,995	378,541	25

TABLE 8 —STATE GOVERNORS —1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television	Total
TEXAS—Continued										
Network and nonnetwork:										
Democrat:										
Barnes				388,062	585,920	\$25	388,438	586,248	\$25	\$165,712
Briscoe				300,175	96,940		323,680	161,782		485,662
Farenthold				105,165	82,206		128,377	87,111		215,488
Looney										
Pooley				700	40		700	40		740
Smith				155,104	53,377		171,725	53,377		225,102
Wills										
Subtotal				633,226	300,383	25	724,121	388,556	25	1,052,704
Republican:										
Fay				20,503	5,792		28,609	5,792		35,401
Fog					17			17		17
Grover				52,980	2,085		57,208	2,085		59,273
Hall				728	235		728	235		1,015
Jenkins					606			606		606
McElroy				42,587	6,148		42,537	6,148		48,733
Pickett										
Reagan				7,550	606		7,550	606		8,156
Subtotal				124,340	15,527		137,674	15,527		153,201
Other parties										
Fikes					45			45		45
Muniz					286		200	286		486
Subtotal					331		200	331		531
Network and nonnetwork total										
				757,566	316,421	25	861,995	384,416	25	1,246,436
UTAH										
Nonnetwork:										
Democrat: Ransjöe	45									285
Democrat: Ransjöe	45	85		1,455	285					285
Republican: Stille					3,204			3,204		6,999
Subtotal	90	85		1,455	3,489			3,795		7,284
Nonnetwork total										
								3,795		3,795

Nonnetwork:	60	101	60	164	101	74
Democrat: Salmons						
Republican:						
Hackett	103	632	2,933	3,125	2,933	3,130
Jeffords	103	543	3,671	2,434	3,671	2,434
Subtotal	206	1,175	6,604	5,559	6,604	5,564
Other parties: Sanders	60	191				
Nonnetwork total	306	1,517	6,664	5,753	6,664	5,758
WASHINGTON						
Nonnetwork:						
Democrat:						
Durkin	84	877	30	29,574	28,914	17,127
McDermott	99	297				57
Rosellini	69	716	19,655	25,778	19,656	26,028
Valdez	15	4		6		54
Subtotal	267	1,894	30	49,229	49,750	43,218
Republican:						
Evans	15	393	2,130	9,682	3,605	9,682
Kanase	13					
Woodall	60	733	1,220	8,775	1,430	8,775
Subtotal	88	1,126	3,350	18,457	5,035	18,457
Other parties:						
Falt	30	240				
Gould		1,009	30			79
Subtotal	30	1,249	30			79
Nonnetwork total	385	4,259	60	52,579	61,425	54,785
WEST VIRGINIA						
Nonnetwork:						
Democrat:						
Kenna	117	120	73	5,345	5,345	5,345
Myers	117	80		518	518	1,628
Rocksfeiler	168	216	101	15,881	28,103	15,930
Subtotal	402	416	174	21,744	36	21,793
Republican: Moose			15			36
Nonnetwork total	402	416	189	21,744	36	21,793
						51,042

TABLE 9.—STATE LIEUTENANT GOVERNORS—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>ARKANSAS</b>									
Nonnetwork:									
Democrat: Riley	38	9		\$4,040			\$4,040		
Republican: Coon	38	233		14,946	\$711	\$47	14,946	\$778	\$47
Nonnetwork total	60	242		18,986	711	47	18,986	778	47
<b>DELAWARE</b>									
Nonnetwork:									
Democrat: Hearn		190							
Republican: Bookhimer		110			909			909	
Other parties: Drummond		100							
Nonnetwork total		400			909			909	
<b>IOWA</b>									
Nonnetwork:									
Democrat: Gannett	124	140		7,292	485		7,292	513	
Republican: New	123	122		4,510	373		4,510	373	
Nonnetwork total	247	262		11,802	858		11,802	886	
<b>ILLINOIS</b>									
Nonnetwork:									
Democrat: Hartigan		115		634	623		634	623	
Republican: Nowlin	14	206							
Other parties:									
Parson		18							
Wilber		30							
Nonnetwork total	14	371		634	623		634	623	
<b>INDIANA</b>									
Nonnetwork:									
Democrat: Bodin	44	280		1,773	370		1,773	370	
Republican: Orr	7	377		691	2,384		691	2,384	
Nonnetwork total	51	657		2,464	2,754		2,464	2,754	





TABLE 9.—STATE LIEUTENANT GOVERNORS—1972 GENERAL ELECTION—POLITICAL BROADCASTING AND CABLECASTING

	Free time in minutes			Charges for announcements				Total charges for time and announcements			
	Television	Radio	Cable television	Television	Radio	Cable television		Television	Radio	Cable television	Total
<b>NORTH DAKOTA</b>											
Nonnetwork:											
Democrat: Sassead	1			\$3,436	\$276			\$3,911	\$276		\$4,187
Republican: Witkile					688				687		\$687
Nonnetwork total	2			3,436	974			3,911	1,133		5,044
<b>RHODE ISLAND</b>											
Nonnetwork:											
Democrat: Garrahy	45	202		2,358	1,883			2,358	1,883		4,241
Republican: Gamariel	45	240			2,761				2,761		2,761
Nonnetwork total	90	442		2,358	4,644			2,358	4,644		7,002
<b>SOUTH DAKOTA</b>											
Nonnetwork:											
Democrat: Daugherty	15	185		3,829	237			3,829	237		3,266
Republican: [unclear]		80			4				4		4
Nonnetwork total	15	265		3,829	241			3,829	241		3,270

Other parties:									
Alewitz	36								
Amey	27	36							
Canalies	10	25	168	18	168	18			74
Sylvanus									186
Total	79	61	168	92	168	92			260
Nonnetwork total	123	125	168	366	168	366			534
UTAH									
Nonnetwork:									
Democrat: Miller		35				1,419			1,419
Republican: Dean		24				453			453
Nonnetwork total		59				1,872			1,872
VERMONT									
Nonnetwork:									
Democrat: Connor		211				365			365
Republican: Burgess		105			1,720	1,050			2,770
Nonnetwork total		316			1,720	1,415			3,136
WASHINGTON									
Nonnetwork:									
Democrat: Chisberg	20	24				4,578			4,578
Republican: Wolf	28	294		21		3,178	\$10		3,188
Nonnetwork total	55	318		21		7,756	10		7,766

TABLE 10.—STATE LIEUTENANT-GOVERNORS—1972 PRELIMINARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Total
<b>ARKANSAS</b>									
Nonnetwork:									
Democrat:									
Thompson					\$189			\$189	\$189
Tucker					180			180	180
Subtotal					369			369	369
Republican: Bethune		5			47			47	47
Nonnetwork total		5			416			416	416
<b>DELAWARE</b>									
Nonnetwork:									
Republican: Bookhamner		30							
Nonnetwork total		30							
<b>IOWA</b>									
Nonnetwork:									
Democrat: Gannon	15	12						173	173
Republican:									
Harbor	147	127			7,136			7,136	7,136
Neel	132	127	14	\$3,051	5,194		\$3,051	5,194	13,245
Subtotal	279	354	14	8,051	12,330		8,051	12,330	20,381
Nonnetwork total	294	366	14	8,051	12,503		8,051	12,503	20,554
<b>ILLINOIS</b>									
Nonnetwork:									
Democrat:									
Eckert		311						23	23
Hartigan		56						30	30
Subtotal		367						53	53
Republican: Nowlan	29	90			39			39	39
Nonnetwork total	29	457			92			92	92
<b>INDIANA</b>									
Nonnetwork:									
Republican: Orr				23			23		23



TABLE 10.—STATE LIEUTENANT-GOVERNORS—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND BROADCASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>MONTANA</b>									
Nonnetwork:									
Democrat: Christianson		11							
Republican: Hanson		35							
Nonnetwork total		46							
<b>NORTH CAROLINA</b>									
Nonnetwork:									
Democrat:									
Berbes	201	34		\$25,478	1,390		\$25,673	1,390	
Fraxel	207								
Harper	231	43		21,160	2,223		21,460	2,223	
Hart	100			55,535	8,164		55,535	8,164	
Sowers	231	130		40,418	5,964		40,418	5,964	
Subtotal	1,191	307		142,589	17,746		142,589	17,746	
Republican:									
Joyner	223	10			55			55	
Walker	223	125		21,757	5,049		21,757	5,049	
Subtotal	446	135		21,757	5,104		21,757	5,104	
Other parties: McLondon	237								
Nonnetwork total	1,794	442		164,346	22,850		164,346	22,850	
<b>NORTH DAKOTA</b>									
Nonnetwork:									
Democrat: Sanstead		25							
Republican:									
Bjorkson		25			638			638	
Whitely		25		2,090	2,423		2,090	2,423	
Subtotal		50		2,090	3,062		2,090	3,062	

Nonnetwork total	75	2,090	3,062	2,090	3,062	5,152
RHODE ISLAND						
Nonnetwork	180					
Republican, Gammell						
Nonnetwork total	180					
TEXAS						
Network						
Democrat						
Connally			2,850		2,850	2,850
Hobby			5,000		5,000	5,000
Network total			7,850		7,850	7,850
Nonnetwork						
Democrat						
Christie	158	33,715	20,859	33,715	20,859	54,574
Connally	176	144,749	35,132	152,394	35,142	187,536
Hill	69	15,270	2,744	15,270	2,716	18,026
Hill			200		200	200
Hobby	291	256,835	51,403	257,460	51,451	308,911
Jones	71	256,835	5,792	935	5,792	6,727
McCard	6					
Skates	24					
Standlee	55					
Subtotal	747	451,504	116,130	459,774	116,200	575,974
Nonnetwork total	747	451,504	116,130	459,774	116,200	575,974
Network and nonnetwork:						
Democrat						
Christie		33,715	20,859	33,715	20,859	54,574
Connally		144,749	37,962	152,394	37,962	190,356
Hill		15,270	2,744	15,270	2,716	18,026
Hill			200		200	200
Hobby		256,835	56,403	257,460	56,451	313,911
Jones		256,835	5,792	935	5,792	6,727
McCard						
Skates						
Standlee						
Subtotal		451,504	123,980	459,774	124,050	583,824
Network and nonnetwork total		451,504	123,980	459,774	124,050	583,824

TABLE 10.—STATE LIEUTENANT-GOVERNORS—1972 PRIMARY ELECTION—POLITICAL BROADCASTING AND CABLECASTING—Continued

	Free time in minutes			Charges for announcements			Total charges for time and announcements		
	Television	Radio	Cable television	Television	Radio	Cable television	Television	Radio	Cable television
<b>VERMONT</b>									
Nonnetwork Democrat	24								
Abnett	24	60							
Connors									
Subtotal	48	60							
Republican									
Burgess	24	326		\$621	\$1,402		\$621	\$1,402	
Greiner	24	214			1,703			1,703	
McCloughery	24	555		717	1,438		717	1,438	
Subtotal	72	1,095		1,338	3,543		1,338	3,543	
Nonnetwork total	120	1,155		1,338	3,543		1,338	3,543	
<b>WASHINGTON</b>									
Nonnetwork Democrat									
Cherberg	5	45			1,141			1,141	
Howard	5	5							
Kneidlik	10	120	30						
Subtotal	20	170	30		1,141			1,141	
Republican									
Smith	5	140							
Swan	5	5							
Wolf	5	125			2,266			2,266	
Subtotal	15	270			2,266			2,266	
Nonnetwork total	35	440	30		3,440			3,440	

TABLE 11.—CHARGES FOR POLITICAL BROADCASTING—1972 ELECTIONS, NETWORK AND NONNETWORK

	President and Vice President	U.S. Senator	U.S. Repre- sentative	State Gov- ernor and Lieutenant Governor	All other State and local offices	Total
<b>PRIMARY ELECTIONS:</b>						
<b>Television stations:</b>						
Democrat.....	\$2,290,915	\$972,726	\$1,270,517	\$2,565,115	\$3,036,585	\$10,144,858
Republican.....	32,432	391,352	410,794	529,401	460,011	1,823,990
Other parties.....	2,160	536	142	395	668,967	672,200
Total.....	2,334,507	1,364,614	1,681,453	3,094,911	4,165,563	12,641,048
<b>Radio stations:</b>						
Democrat.....	1,144,491	443,516	761,174	850,879	3,549,943	6,750,003
Republican.....	34,494	134,723	257,180	195,444	788,914	1,410,755
Other parties.....	2,538	377	4,316	648	679,816	687,695
Total.....	1,181,523	578,616	1,022,670	1,046,971	5,018,673	8,944,453
<b>Cable television systems:</b>						
Democrat.....	300	302	663	152	11,830	13,247
Republican.....		111	722	100	2,266	3,509
Other parties.....					7,421	7,421
Total.....	300	723	1,385	252	21,517	24,177
<b>Total TV, radio and CATV:</b>						
Democrat.....	3,444,706	1,416,544	2,032,354	3,416,146	6,598,358	16,908,108
Republican.....	66,926	526,496	668,696	724,945	1,251,191	3,238,254
Other parties.....	4,698	913	4,458	1,043	1,356,204	1,367,316
Total.....	3,516,330	1,943,953	2,705,508	4,142,134	9,205,753	21,513,678
<b>GENERAL ELECTION</b>						
<b>Television stations:</b>						
Democrat.....	4,846,248	1,268,658	1,285,837	1,913,995	2,118,359	11,433,097
Republican.....	3,571,008	1,797,139	1,415,853	2,252,695	2,581,863	11,618,558
Other parties.....	206,728	111,693	35,580	26,348	1,132,708	1,515,055
Total.....	8,623,982	3,177,490	2,737,270	4,195,038	5,832,930	24,566,710
<b>Radio stations:</b>						
Democrat.....	1,363,894	576,012	967,900	582,839	2,563,075	6,053,720
Republican.....	726,985	704,820	1,005,912	752,394	2,688,688	5,878,799
Other parties.....	93,262	7,557	41,594	42,204	1,392,869	1,577,486
Total.....	2,184,141	1,288,389	2,015,406	1,377,437	6,644,632	13,510,005
<b>Cable television systems:</b>						
Democrat.....	1,198	966	2,892	1,104	13,391	19,551
Republican.....	476	417	1,547	184	20,715	23,339
Other parties.....	70		100		7,129	7,299
Total.....	1,744	1,383	4,539	1,288	41,235	50,189
<b>Total TV, radio and CATV:</b>						
Democrat.....	6,211,340	1,845,636	2,256,629	2,497,938	4,694,825	17,506,368
Republican.....	4,298,469	2,502,376	2,423,312	3,005,273	5,291,266	17,520,696
Other parties.....	300,058	119,250	77,274	70,552	2,532,706	3,099,840
Total.....	10,809,867	4,467,262	4,757,215	5,573,763	12,518,797	38,128,904



TABLE 11.—CHARGES FOR POLITICAL BROADCASTING—1972 ELECTIONS, NETWORK AND NONNETWORK—Con.

	President and Vice President	U.S. Senator	U.S. Repre- sentative	State Gov- ernor and Lieutenant Governor	All other State and local offices	Total
<b>PRIMARY AND GENERAL ELECTIONS</b>						
<b>Television stations:</b>						
Democrat.....	\$7,146,183	\$2,241,384	2,556,354	\$4,479,110	\$5,154,944	\$21,577,955
Republican.....	3,603,440	2,189,491	1,626,947	2,782,096	3,041,874	13,442,548
Other parties.....	208,886	112,229	35,722	28,743	1,801,675	2,187,255
Total.....	10,958,489	4,542,104	4,418,723	7,289,949	9,998,493	37,207,758
<b>Radio stations:</b>						
Democrat.....	2,508,385	1,019,528	1,729,074	1,433,718	6,113,018	12,803,723
Republican.....	761,479	839,543	1,283,082	947,838	2,477,602	7,289,554
Other parties.....	85,800	7,834	46,810	42,852	2,072,685	2,265,181
Total.....	3,365,664	1,867,005	3,058,976	2,424,408	11,663,305	22,358,458
<b>Cable television systems:</b>						
Democrat.....	1,498	1,268	3,555	1,256	25,271	32,798
Republican.....	476	830	2,269	284	22,981	26,840
Other parties.....	70		100		14,550	14,720
Total.....	2,044	2,106	5,924	1,540	62,752	74,368
<b>Total TV, radio and CATV:</b>						
Democrat.....	9,656,046	3,262,180	4,288,983	5,914,084	11,299,183	34,414,476
Republican.....	4,365,395	3,028,672	3,082,068	2,730,218	6,542,457	20,788,900
Other parties.....	304,756	120,163	81,732	71,595	3,888,910	4,467,156
Total.....	14,326,197	6,411,215	7,462,723	9,715,897	21,724,550	58,640,582

TABLE 12.—CHARGES FOR POLITICAL BROADCASTING—1972 ELECTIONS, NETWORK

	President and Vice President	U.S. Senator	U.S. Repre- sentative	State Gov- ernor and Lieutenant Governor	All other State and local offices	Total
<b>PRIMARY ELECTION</b>						
<b>Television stations:</b>						
Democrat.....	\$56,240					\$56,240
Republican.....						
Other parties.....						
Total.....	56,240					56,240
<b>Radio stations:</b>						
Democrat.....	2,900	\$2,823		\$13,725	\$4,351	23,799
Republican.....						
Other parties.....						
Total.....	2,900	2,823		13,725	4,351	23,799
<b>Cable television systems:</b>						
Democrat.....						
Republican.....						
Other parties.....						
Total.....						
<b>Total TV, radio and CATV:</b>						
Democrat.....	59,140	2,823		13,725	4,351	80,039
Republican.....						
Other parties.....						
Total.....	59,140	2,823		13,725	4,351	80,039

TABLE 12.—CHARGES FOR POLITICAL BROADCASTING—1972 ELECTIONS, NETWORK—Continued

	President and Vice President	U.S. Senator	U.S. Repre- sentative	State Gov- ernor and Lieutenant Governor	All other State and local offices	Total
<b>GENERAL ELECTION</b>						
Television stations*						
Democrat . . . . .	2,422,574	3,304	60,905			2,486,783
Republican . . . . .	2,285,317		1,426			2,286,743
Other parties . . . . .	132,150	2,140	3,567			137,857
Total . . . . .	4,840,041	5,444	65,898			4,911,383
Radio stations . . . . .						
Democrat . . . . .	81,734	4,215			3,868	89,818
Republican . . . . .	362,719	5,950		263		368,932
Other parties . . . . .	30,709					30,709
Total . . . . .	475,162	10,165		263	3,868	489,459
Cable television systems . . . . .						
Democrat . . . . .						
Republican . . . . .						
Other parties . . . . .						
Total . . . . .						
Total TV, radio and CATV . . . . .						
Democrat . . . . .	2,504,308	7,520	60,905		3,868	2,576,601
Republican . . . . .	2,648,036	5,950	1,426	263		2,655,675
Other parties . . . . .	162,859	2,140	3,567			168,566
Total . . . . .	5,315,203	15,610	65,898	263	3,868	5,400,842
<b>PRIMARY AND GENERAL ELECTIONS</b>						
Television stations . . . . .						
Democrat . . . . .	2,478,814	3,304	60,905			2,543,023
Republican . . . . .	2,285,317		1,426			2,286,743
Other parties . . . . .	132,150	2,140	3,567			137,857
Total . . . . .	4,896,281	5,444	65,898			4,967,623
Radio stations . . . . .						
Democrat . . . . .	84,634	7,039		13,725	8,219	113,617
Republican . . . . .	362,719	5,950		263		368,932
Other parties . . . . .	30,709					30,709
Total . . . . .	478,062	12,989		13,988	8,219	513,258
Cable television systems . . . . .						
Democrat . . . . .						
Republican . . . . .						
Other parties . . . . .						
Total . . . . .						
Total TV, radio and CATV . . . . .						
Democrat . . . . .	2,563,448	10,343	60,905	13,725	8,219	2,656,640
Republican . . . . .	2,648,036	5,950	1,426	263		2,655,675
Other parties . . . . .	162,859	2,140	3,567			168,566
Total . . . . .	5,374,343	18,433	65,898	13,988	8,219	5,480,881

TABLE 13 CHARGES FOR POLITICAL BROADCASTING 1972 ELECTIONS, NONNETWORK

	President and Vice President	U.S. Senator	U.S. Repre- sentative	State Gov- ernor and Lieutenant Governor	All other State and local offices	Total
<b>PRIMARY ELECTION</b>						
<b>Television stations:</b>						
Democrat .....	\$2,243,675	\$875,726	\$1,270,517	\$2,565,115	\$3,036,585	\$10,088,518
Republican .....	32,432	391,352	410,794	529,401	460,011	1,823,989
Other parties .....	2,160	536	142	395	658,967	672,200
<b>Total .....</b>	<b>2,278,267</b>	<b>1,367,614</b>	<b>1,681,453</b>	<b>3,094,911</b>	<b>4,155,563</b>	<b>12,584,808</b>
<b>Radio stations:</b>						
Democrat .....	1,141,581	440,693	761,174	837,154	3,545,592	6,726,294
Republican .....	34,484	134,723	257,180	195,444	788,914	1,410,755
Other parties .....	2,538	377	4,316	648	679,816	687,635
<b>Total .....</b>	<b>1,178,623</b>	<b>675,793</b>	<b>1,022,670</b>	<b>1,033,246</b>	<b>5,014,322</b>	<b>8,824,654</b>
<b>Cable television systems:</b>						
Democrat .....	300	302	663	152	11,830	13,247
Republican .....		421	722	100	2,266	3,509
Other parties .....					7,421	7,421
<b>Total .....</b>	<b>300</b>	<b>723</b>	<b>1,385</b>	<b>252</b>	<b>21,517</b>	<b>24,177</b>
<b>Total TV, Radio and CATV .....</b>	<b>3,395,566</b>	<b>1,413,721</b>	<b>2,032,354</b>	<b>3,402,421</b>	<b>5,594,007</b>	<b>16,828,068</b>
Democrat .....	66,926	526,496	668,696	724,945	1,251,191	3,238,254
Republican .....	4,698	913	4,458	1,043	1,356,204	1,367,316
Other parties .....						
<b>Total .....</b>	<b>3,457,190</b>	<b>1,941,130</b>	<b>2,705,508</b>	<b>4,128,409</b>	<b>9,201,402</b>	<b>21,433,639</b>
<b>GENERAL ELECTION</b>						
<b>Television stations:</b>						
Democrat .....	2,423,647	1,265,354	1,224,932	1,913,995	2,118,359	8,946,314
Republican .....	1,285,691	1,797,139	1,414,427	2,252,695	2,581,863	9,313,815
Other parties .....	74,576	109,553	32,013	28,348	1,132,708	1,377,197
<b>Total .....</b>	<b>3,783,914</b>	<b>3,172,046</b>	<b>2,671,372</b>	<b>4,195,038</b>	<b>5,832,930</b>	<b>19,655,327</b>
<b>Radio stations:</b>						
Democrat .....	1,282,160	571,796	937,900	582,839	2,559,207	5,963,902
Republican .....	364,266	698,870	1,005,912	752,131	2,688,688	5,509,867
Other parties .....	62,553	7,557	41,594	42,204	1,392,869	1,546,777
<b>Total .....</b>	<b>1,708,979</b>	<b>1,278,223</b>	<b>2,015,406</b>	<b>1,377,174</b>	<b>6,640,764</b>	<b>13,020,546</b>
<b>Cable television systems:</b>						
Democrat .....	1,198	966	2,892	1,104	13,391	19,551
Republican .....	476	417	1,547	184	20,715	23,339
Other parties .....	70		100		7,129	7,299
<b>Total .....</b>	<b>1,744</b>	<b>1,383</b>	<b>4,539</b>	<b>1,288</b>	<b>41,235</b>	<b>50,189</b>
<b>Total TV, radio and CATV:</b>						
Democrat .....	3,707,032	1,838,116	2,195,724	2,497,938	4,690,957	14,929,767
Republican .....	1,650,433	2,496,426	2,421,886	3,005,010	5,291,266	14,865,021
Other parties .....	137,199	117,110	73,707	70,552	2,632,706	2,931,274
<b>Total .....</b>	<b>5,494,664</b>	<b>4,451,652</b>	<b>4,691,317</b>	<b>5,573,500</b>	<b>12,514,929</b>	<b>32,726,062</b>

TABLE 13. CHARGES FOR POLITICAL BROADCASTING—1972 ELECTIONS, NONNETWORK—Continued

	President and Vice President	U.S. Senator	U.S. Repre- sentative	State Gov- ernor and Lieutenant Governor	All other State and local offices	Total
<b>PRIMARY AND GENERAL ELECTIONS</b>						
<b>Television stations</b>						
Democrat	4,667,349	2,238,080	2,495,449	4,479,110	5,154,944	19,034,932
Republican	1,318,123	2,188,491	1,825,221	2,782,096	3,041,874	11,155,805
Other parties	76,736	110,089	32,155	28,743	1,801,675	2,049,398
Total	6,062,208	4,536,660	4,352,825	7,289,949	9,998,493	32,240,135
<b>Radio stations</b>						
Democrat	2,423,751	1,012,489	1,729,074	1,419,993	6,104,799	12,690,106
Republican	398,760	833,593	1,269,092	847,575	3,477,602	6,920,622
Other parties	65,091	7,934	45,910	42,852	2,072,685	2,234,472
Total	2,887,602	1,854,016	3,038,076	2,410,420	11,655,086	21,845,200
<b>Cable television systems</b>						
Democrat	1,498	1,268	3,555	1,256	25,221	32,798
Republican	476	838	2,269	284	22,981	26,848
Other parties	70	-	100	-	14,550	14,720
Total	2,044	2,106	5,924	1,540	62,752	74,366
<b>Total TV, radio and CATV</b>						
Democrat	7,092,598	3,251,837	4,228,078	5,900,359	11,284,964	31,757,836
Republican	1,717,359	3,022,922	3,090,582	3,729,955	6,542,457	18,103,275
Other parties	141,897	118,023	78,165	71,595	3,888,910	4,298,590
Total	8,951,854	6,392,782	7,396,825	9,710,909	21,716,331	54,159,701

TABLE 14.—1972 ELECTIONS—TOTAL CHARGES FOR POLITICAL BROADCASTING AND CABLECASTING, NETWORK AND NONNETWORK

	Charges for announcements	Charges for program time	Total charges
<b>PRIMARY ELECTION</b>			
Democrat	\$15,695,392	\$1,212,716	\$16,908,108
Republican	3,032,288	205,966	3,238,254
Other parties	1,316,702	50,614	1,367,316
Total	20,044,382	1,469,296	21,513,678
<b>GENERAL ELECTION</b>			
Democrat	14,723,108	2,783,260	17,506,368
Republican	15,307,884	2,212,812	17,520,696
Other parties	2,622,473	480,847	3,103,347
Total	32,653,465	5,476,946	38,130,411
<b>PRIMARY AND GENERAL ELECTIONS</b>			
Democrat	30,418,500	3,995,976	34,414,476
Republican	18,340,172	2,418,778	20,758,950
Other parties	3,939,175	531,488	4,470,663
Total	52,697,847	6,946,242	59,644,089

TABLE 15.—1972 ELECTIONS—TOTAL TELEVISION AND RADIO STATIONS AND CABLE TELEVISION SYSTEMS; PROGRAM TIME AND ANNOUNCEMENTS, NONNETWORK PROGRAMS

	Free time (hours)					
	Charges for announcements	Charges for program time	Total charges	Sustaining time	Time on sponsored programs	Total time
PRIMARY ELECTION						
Democrat	\$15,615,353	\$1,212,716	\$16,828,069	3,535	1,496	5,031
Republican	3,032,288	205,966	3,238,254	1,578	738	2,316
Other parties	1,316,702	50,654	1,367,316	449	198	647
Total	19,964,343	1,469,296	21,433,639	5,562	2,432	7,994
GENERAL ELECTION						
Democrat	13,445,149	1,484,618	14,929,767	3,334	1,438	4,772
Republican	13,954,605	900,416	14,855,021	3,340	1,360	4,700
Other parties	2,596,585	334,689	2,931,274	1,572	570	2,142
Total	30,006,339	2,719,723	32,726,062	8,246	3,367	11,613
PRIMARY AND GENERAL ELECTIONS						
Democrat	29,060,502	2,697,334	31,757,836	6,868	2,934	9,802
Republican	16,936,893	1,106,382	18,043,275	4,918	2,098	7,016
Other parties	3,913,287	385,363	4,298,590	2,021	768	2,789
Total	49,910,682	4,189,019	54,109,701	13,808	5,799	19,607

TABLE 16.—1972 ELECTIONS—COMMERCIAL TELEVISION STATIONS—PROGRAM TIME AND ANNOUNCEMENTS, NONNETWORK PROGRAMS

				Free time (hours)			
	Charges for announce- ments	Charges for program time	Total charges	Sustaining time	Time on sponsored programs	Total time	
PRIMARY ELECTION							
Democrat .....	\$9 061 187	\$1 027 056	\$10 088 618	487	191	678	
Republican .....	1 640 683	182 917	1 823 990	242	75	317	
Other parties .....	632 059	40 141	672 200	57	25	82	
Total .....	11 333 929	1 250 114	12 584 009	786	282	1 068	
GENERAL ELECTION							
Democrat .....	7 751 967	1 194 347	8 946 314	407	147	554	
Republican .....	8 708 510	623 305	9 331 815	407	144	551	
Other parties .....	1 254 346	122 852	1 377 198	57	71	128	
Total .....	17 714 823	1 940 504	19 655 327	1 114	363	1 477	
PRIMARY AND GENERAL ELEC- TIONS							
Democrat .....	16 813 154	2 221 403	19 034 932	935	338	1 273	
Republican .....	10 349 193	806 222	11 155 805	649	220	869	
Other parties .....	1 886 405	162 993	2 049 398	317	86	403	
Total .....	29 048 752	3 190 618	32 240 135	1 900	645	2 545	

TABLE 17. 1972 ELECTIONS—COMMERCIAL RADIO STATIONS, PROGRAM TIME AND ANNOUNCEMENTS, NONNETWORK PROGRAMS

				Free time (hours)			
	Charges for announcements	Charges for program time	Total charges	Sustaining time	Time on sponsored programs	Total time	
PRIMARY ELECTION							
Democrat	\$6 542,622	\$183 514	\$6,726,136	2,360	1,254	3 614	
Republican	1,388 566	22 189	1 410 755	1,010	626	1 636	
Other parties	677 652	10,043	687 695	299	174	473	
Total	8,608,840	215,746	8,824 586	3,669	2,055	5,724	
GENERAL ELECTION							
Democrat	5,675 705	288,147	5 963,852	2,064	1 243	3,307	
Republican	5 234 770	275,097	5 509 867	2 156	1,169	3,325	
Other parties	1,335,914	210 863	1 546 777	836	481	1,317	
Total	12,246,389	774,107	13,020 496	5,056	2 893	7,949	
PRIMARY AND GENERAL ELECTIONS							
Democrat	12,218,327	471 661	12 689,988	4,424	2 498	6,922	
Republican	6 623 336	297,286	6,920 622	3,167	1 736	4 903	
Other parties	2,013,566	220 906	2 234 472	1 134	655	1,789	
Total	20,855,229	989,853	21,845,082	8,725	4,948	13 673	

TABLE 18. 1972 ELECTIONS—CABLE TELEVISION SYSTEMS PROGRAM TIME AND ANNOUNCEMENTS

	Charges for announcements	Charges for program time	Total charges	Free time (hours)		Total time
				Sustaining time	Time on sponsored programs	
PRIMARY ELECTION						
Democrat	\$11 476	\$1,771	\$13 247	196	39	235
Republican	3 039	470	3 509	79	28	107
Other parties	6 991	430	7 421	13	9	22
Total	21 506	2,671	24 177		77	365
GENERAL ELECTION						
Democrat	17,427	2,124	19,551	274		316
Republican	21,325	2,014	23,339	294	45	339
Other parties	6,325	974	7,299	91	14	
Total	45,077	5,112	50,189	659	100	759
PRIMARY AND GENERAL ELECTIONS						
Democrat	28,903	3,895	32 798		81	551
Republican	24,364	2 484	26 848	373	73	446
Other parties	13,316	1 404	14 720	104	23	127
Total	66,583	7 783	74 366		177	1,124

TABLE 19.—1972 ELECTIONS—NONCOMMERCIAL TELEVISION STATIONS: PROGRAM TIME AND ANNOUNCEMENTS—NONNETWORK PROGRAMS

	Charges for announcements	Charges for program time	Total charges	Free time (hours)		Total time
				Sustaining time	Time on sponsored programs	
PRIMARY ELECTION						
Democrat.....				338	5	343
Republican.....				157	4	161
Other parties.....				26		26
Total.....				521	9	530
GENERAL ELECTION						
Democrat.....				315	2	317
Republican.....				278	1	279
Other parties.....				257	3	260
Total.....				850	6	856
PRIMARY AND GENERAL ELECTIONS						
Democrat.....				653	7	660
Republican.....				434	5	439
Other parties.....				284	3	287
Total.....				1,371	15	1,386

TABLE 20. 1972 ELECTIONS—NONCOMMERCIAL RADIO STATIONS: PROGRAM TIME AND ANNOUNCEMENTS—NONNETWORK PROGRAMS

	Charges for announcements	Charges for program time	Total charges	Free time (hours)		Total time
				Sustaining time	Time on sponsored programs	
PRIMARY ELECTION						
Democrat.....				88	5	93
Republican.....				90	4	94
Other parties.....				54		54
Total.....				298	9	307
GENERAL ELECTION						
Democrat.....				233	3	236
Republican.....				206	1	207
Other parties.....				128	1	129
Total.....				567	5	572
PRIMARY AND GENERAL ELECTIONS						
Democrat.....				387	9	396
Republican.....				296	5	301
Other parties.....				182	1	183
Total.....				865	15	880

21. 1972 ELECTIONS—COMMERCIAL AND NONCOMMERCIAL NETWORKS PROGRAM TIME AND ANNOUNCEMENTS

				Free time (hours)			
	Charges for announc- ments	Charges for program time	Total charges	Sustaining time	Time on sponsored programs	Total time	
PRIMARY ELECTION							
Democrat	\$80,039		\$80,039	35	33	68	
Republican				44	22	66	
Total	80,039		80,039	79	56	135	
GENERAL ELECTION							
Democrat	1,277,959	\$1,298,642	2,576,601	27	16	43	
Republican	1,343,279	1,312,396	2,655,675	23	10	33	
Other parties	22,381	146,185	168,566	5	2	8	
Total	2,643,619	2,757,223	5,400,842	56	28	84	
PRIMARY AND GENERAL ELECTIONS							
Democrat	1,357,998	1,298,642	2,656,640	61	50	111	
Republican	1,343,279	1,312,396	2,655,675	67	32	99	
Other parties	22,381	146,185	168,566	5	2	8	
Total	2,723,658	2,757,223	5,480,881	134	84	218	

22. 1972 ELECTIONS—COMMERCIAL TELEVISION NETWORKS. PROGRAM TIME AND ANNOUNCEMENTS

	Charges for announcements	Charges for program time	Total charges	Free time (hours)		Total time
				Sustaining time	Time on sponsored programs	
PRIMARY ELECTION						
Democrat.....	\$56,240		\$56,240	7	31	38
Republican.....				14	22	36
Total.....	56,240		56,240	20	53	73
GENERAL ELECTION						
Democrat.....	1,207,911	\$1,278,872	2,486,783		16	16
Republican.....	1,258,348	1,028,395	2,286,743		10	10
Other parties.....		137,857	137,857		2	2
Total.....	2,466,259	2,445,124	4,911,383	1	28	29
PRIMARY AND GENERAL ELECTIONS						
Democrat.....	1,264,151	1,278,872	2,543,023	7	47	54
Republican.....	1,258,348	1,028,395	2,286,743	14	32	46
Other parties.....		137,857	137,857		2	2
Total.....	2,522,499	2,445,124	4,967,623	21	81	102



TABLE 23.—1972 ELECTIONS—COMMERCIAL RADIO NETWORKS: PROGRAM TIME AND ANNOUNCEMENTS

	Charges for announcements	Charges for program time	Total charges	Sustaining time	Free time (hours) Time on sponsored programs	Total
PRIMARY ELECTION						
Democrat .....	\$23,799		\$23,799	16	2	
Republican .....				15		
Total .....	23,799		23,799	31	3	
GENERAL ELECTION						
Democrat .....	70,048	\$19,770	89,818	10		
Republican .....	84,931	284,001	368,932	7		
Other parties .....	22,381	8,328	30,709	2		
Total .....	177,360	312,099	489,459	19		
PRIMARY AND GENERAL ELECTIONS						
Democrat .....	93,847	19,770	113,617	26	2	
Republican .....	84,931	284,001	368,932	22		
Other parties .....	22,381	8,328	30,709	2		
Total .....	201,159	312,099	513,258	50	3	

TABLE 24.—1972 ELECTIONS—NONCOMMERCIAL RADIO AND TELEVISION NETWORKS, PROGRAM TIME AND ANNOUNCEMENTS

	Free time (hours)	
	Sustaining time	Time on sponsored programs
Total time		
<b>Primary election:</b>		
Democrat.....	12	12
Republican.....	15	15
Total.....	27	27
<b>General election:</b>		
Democrat.....	16	16
Republican.....	16	16
Other parties.....	3	3
Total.....	35	35
<b>Primary and general elections:</b>		
Democrat.....	28	28
Republican.....	31	31
Other parties.....	3	3
Total.....	62	62

TABLE 25.—TELEVISION AND RADIO STATIONS AND CABLE TELEVISION SYSTEMS—CHARGES FOR NONNETWORK POLITICAL BROADCASTS AND CABLECASTS IN GENERAL CAMPAIGNS, 1972

	For offices of: President and Vice President, U.S. Senator, U.S. Representative, State Governor, and Lieutenant Governor				Total of all offices <sup>1</sup>			
	Total		Total		Total		Total	
	Democrat	Republican	Democrat	Republican	Democrat	Republican	Democrat	Republican
Alabama	\$168,440	\$180,861	\$5,322		\$259,539	\$207,018	\$21,207	\$427,813
Alaska	25,234	37,034	1,219		105,387	107,643	74,425	235,465
Arizona	41,776	47,966	1,164		112,095	107,643	24,513	244,885
Arkansas	53,664	47,934	1,200		93,081	82,852	11,216	195,989
California	802,241	571,634	40,121		949,540	785,414	311,864	2,109,938
Colorado	94,515	98,441	3,049		135,591	148,781	12,829	297,231
Connecticut	160,460	53,240	215,241		180,153	72,048	4,157	255,368
Delaware	36,229	73,498	1,864		48,316	96,037	1,116	145,468
District of Columbia	68,291	11,448	2,512		62,070	15,647	2,867	88,704
Florida	108,457	66,457	2,182		447,320	364,072	72,692	884,044
Georgia	104,109	114,600	309		224,375	223,719	24,285	432,350
Hawaii	1,514	5,714	1,328		12,788	13,001	4,152	34,853
Idaho	37,245	28,907	68,152		124,976	80,520	3,619	205,448
Illinois	35,312	43,445	79,034		54,070	64,653	11,928	122,742
Indiana	684,073	1,147,045	1,837,299		1,068,458	1,784,320	24,851	2,865,206
Iowa	381,604	467,894	6,937		459,650	448,000	5,186	1,541,537
Kansas	201,800	216,403	1,134		270,182	288,999	3,787	665,264
Kentucky	228,499	284,730	2,784		312,480	359,039	1,192	407,042
Louisiana	215,001	163,581	1,769		221,195	170,535	15,187	818,205
Maine	239,715	214,788	111,251		365,137	298,335	128,631	818,205
Maryland	480,638	28,671	1,316		100,417	38,749	4,430	139,071
Massachusetts	118,879	109,564	1,331		124,469	118,271	2,216	257,614
Michigan	185,960	183,425	16,515		250,639	238,643	21,580	512,138
Minnesota	494,731	354,612	11,238		549,300	448,648	34,734	1,031,682
Mississippi	234,037	207,671	9,337		445,862	331,273	84,273	871,026
Missouri	129,082	82,424	2,337		134,506	137,908	4,888	234,712

Missouri	508,019	365,711	1,095	875,825	689,819	595,422	8,379	1,271,611
Montana	105,632	58,407	1,467	165,268	132,484	85,940	7,369	235,293
Nebraska	39,268	56,083	8	96,251	50,320	71,642	60,269	187,271
Nevada	31,226	27,637	8	50,672	62,461	48,272	22,468	157,181
New Hampshire	41,107	27,730	8,965	72,862	44,469	28,352	26,4	96,066
New Jersey	68,657	80,633	17,361	152,851	101,231	118,823	23,535	223,689
New Mexico	81,656	49,993	17,644	133,364	129,173	88,728	53,519	223,720
New York	744,315	627,743	17,238	1,789,777	1,291,318	1,405,559	8,912	2,197,424
North Carolina	379,257	398,666	1,517	789,162	498,253	470,118	6,273	1,476,283
North Dakota	39,025	48,341	8,468	86,826	62,063	47,119	8,273	146,581
Ohio	372,353	182,341	8,653	563,182	732,762	566,656	81,579	1,380,837
Oklahoma	101,640	126,994	1,653	233,197	142,641	174,322	2,522	319,485
Oregon	86,851	95,725	1,429	174,065	149,007	171,234	62,247	367,989
Pennsylvania	330,943	206,174	7,698	543,875	584,062	498,713	9,574	1,002,349
Puerto Rico	325,282	458,525	47,516	831,373	649,747	877,450	2,595,616	2,595,616
Rhode Island	194,197	173,083	7,467	374,697	239,343	225,704	9,934	472,981
South Carolina	93,977	118,884	5,903	218,364	216,610	216,837	11,868	445,315
South Dakota	98,276	69,530	12,004	187,856	111,372	97,121	17,904	206,397
Tennessee	146,703	247,991	405,698	247,830	397,318	327,443	65,795	711,043
Texas	698,415	694,497	13,186	1,378,042	846,208	908,926	32,443	1,765,577
Utah	88,989	76,280	1,865	165,445	168,807	105,713	1,513	274,103
Vermont	19,146	15,462	473	35,491	24,344	21,273	46,758	71,043
Virgin Islands	580	42	15,639	35,622	2,972	2,676	31,388	37,036
Virginia	159,258	267,470	441,367	441,367	186,695	296,891	40,678	524,554
Washington	187,743	121,854	11,055	326,652	276,265	215,634	34,817	525,876
West Virginia	238,712	140,623	379,335	379,335	318,343	219,183	3,129	539,655
Wisconsin	194,130	97,859	294,854	294,854	254,140	182,875	35,598	472,713
Wyoming	16,691	27,051	111	37,853	19,193	41,068	2,558	62,869
Total, United States	10,238,810	9,573,755	398,559	20,211,083	14,929,767	14,865,021	2,931,274	32,728,042

<sup>1</sup> Includes all local, State, and national elective offices. Figures for State and local offices other than Governor and Lieutenant Governor are necessarily classified by State of station rather than State of candidacy. This was done to simplify reporting requirements.

Table 28.—TELEVISION AND RADIO STATIONS AND CABLE TELEVISION SYSTEMS—CHARGES FOR NONNETWORK POLITICAL BROADCASTS AND CABLECASTS IN PRIMARY CAMPAIGNS, 1972

	For offices of President and Vice President, U.S. Senator, U.S. Representative, State Governor, and Lieutenant Governor				Total of all offices:		
	Democrat	Republican	Other	Total	Democrat	Republican	Other
Alabama	\$253,775	\$72,731	896	\$326,502	\$558,918	\$76,614	\$25,590
Alaska	0	13,436	241	13,677	15,901	21,237	34,618
Arizona	55,514	17,283	15	72,812	123,200	64,719	6,231
Arkansas	264,755	17,47	697	265,489	478,387	1,938	6,671
California	747,903	65,948		813,851	843,951	115,707	279,666
Colorado	62,156	4,465	30	67,013	71,369	17,707	
Connecticut	3,286	22,177		25,463	10,539	5,581	
Delaware	11,465			11,465	6,534	24,487	94
District of Columbia	807,684	28,319		835,993	1,647,018	148,655	1,687
Florida	444,687	1,109		445,796	867,157	97,657	11,323
Georgia					19,529	31,178	
Hawaii	14,942	7,085		22,027	18,982	89,686	289
Idaho	23,367	68,332		91,699	28,037	141,880	5,069
Illinois	468,033	54,450	45	522,528	550,647	74,563	6,519
Indiana	63,712	54,344	108	118,274	108,768	48,948	1,819
Iowa	15,285	20,441		35,726	28,481	29,299	1,819
Kansas	1,973	163,871		165,844	10,815	26,383	1,819
Kentucky	40,538	34,454		74,992	10,815	11,011	1,819
Louisiana	249,684	1,903	30	251,617	1,588,807	30,151	1,819
Maine	18,153	2,013		20,166	1,719	3,011	1,819
Maryland	58,088	8,078		66,166	108,432	4,000	1,819
Massachusetts	223,432	35,684	1,323	259,234	319,907	133,543	11,263
Michigan	159,435	34,689	1,969	204,403	208,646	133,543	64,370
Minnesota	16,361	42,786	19	59,166	20,542	6,963	31,182
Mississippi							
Missouri							
Montana							
Nebraska							
Nevada							
New Hampshire							
New Jersey							
New Mexico							
New York							
North Carolina							
North Dakota							
Ohio							
Oklahoma							
Oregon							
Rhode Island							
South Carolina							
South Dakota							
Tennessee							
Texas							
Utah							
Vermont							
Virginia							
Washington							
West Virginia							
Wisconsin							
Wyoming							

Mississippi	391, 108	17, 215	34	948, 149	19, 997	2, 893	975, 895
Missouri	427, 518	108, 780	195	543, 571	157, 888	2, 893	735, 297
Montana	40, 875	16, 086	---	57, 722	20, 640	2, 893	69, 207
Nebraska	94, 982	4, 780	---	104, 742	10, 960	2, 893	138, 110
Nevada	48, 884	---	---	46, 884	66, 497	8, 63	77, 613
New Hampshire	115, 804	69, 212	---	176, 016	66, 714	228	184, 630
New Jersey	46, 567	2, 180	---	48, 747	61, 811	2, 898	81, 780
New Mexico	110, 672	13, 403	---	124, 075	19, 678	2, 898	181, 298
New York	190, 278	28, 328	---	198, 617	119, 308	12, 628	331, 864
North Carolina	1, 259, 743	177, 949	2, 600	1, 477, 886	190, 442	8, 334	1, 710, 640
North Dakota	---	53, 428	---	33, 965	47, 968	4, 135	53, 647
Ohio	207, 220	6, 251	---	213, 471	275, 784	2, 778	337, 848
Oklahoma	139, 469	70, 015	---	209, 484	98, 116	4, 535	427, 885
Oregon	67, 217	11, 222	94	78, 533	48, 287	84, 599	208, 614
Pennsylvania	140, 104	66, 363	---	206, 467	98, 889	12, 870	295, 583
Puerto Rico	---	145	40	15, 649	12, 911	12, 870	51, 705
Rhode Island	15, 586	---	143	15, 649	17, 241	12, 870	17, 902
South Carolina	49, 126	---	733	49, 036	301, 328	889	305, 586
South Dakota	7, 917	102, 731	---	110, 648	8, 557	134	116, 053
Tennessee	110, 891	80, 182	2, 224	193, 797	216, 629	46, 223	378, 136
Texas	2, 031, 754	234, 234	546	2, 266, 534	285, 686	19, 275	3, 774, 387
Utah	2, 198	12, 257	---	14, 455	16, 321	274	26, 445
Vermont	---	17, 106	54	17, 638	35, 838	534	38, 949
Virgin Islands	1, 881	18	---	1, 899	5, 055	16, 168	21, 548
Virginia	8, 039	2, 258	---	10, 297	6, 441	675	19, 567
Washington	106, 343	43, 068	241	149, 652	62, 456	52, 598	302, 837
West Virginia	108, 797	8, 497	---	118, 294	42, 805	8, 836	295, 147
Wisconsin	481, 667	62, 479	7	544, 153	84, 908	48, 106	626, 385
Wyoming	481, 39	11, 947	---	11, 986	17, 729	48, 943	19, 943
Total, United States	10, 234, 437	1, 967, 453	11, 112	12, 233, 002	16, 828, 069	1, 967, 316	21, 433, 639

1 Includes all local, State, and National elective offices. Figures for State and local offices, other than Governor and Lieutenant Governor, are necessarily classified by State of station rather than State of candidacy. This was done to simplify reporting requirements.

TABLE 27.—TELEVISION STATIONS—CHARGES FOR NONNETWORK POLITICAL BROADCASTS IN GENERAL CAMPAIGNS, 1972

	For offices of: President and Vice President, U.S. Senator, U.S. Representative, State Governor, and Lieutenant Governor				Total of all offices		
	Democrat	Republican	Other	Total	Democrat	Republican	Other
Alabama.....	\$119,020	\$137,194	\$2,544	\$258,758	\$156,768	\$148,319	\$2,802
Alaska.....	15,048	20,761	24,240	59,959	55,443	56,882	35,162
Arizona.....	27,783	24,707	—	52,490	65,518	63,588	15,684
Arkansas.....	34,498	42,301	—	76,799	54,240	70,488	1,507
California.....	519,370	346,596	32,001	897,967	636,246	457,272	205,973
Colorado.....	52,047	65,604	—	118,211	62,210	86,171	9,312
Connecticut.....	106,346	25,946	—	132,292	106,346	25,946	—
Delaware.....	4,597	41,643	—	46,240	4,597	41,643	—
District of Columbia.....	48,768	3,950	832	53,550	48,768	3,950	832
Florida.....	68,467	43,640	30	112,137	233,321	190,145	28,539
Georgia.....	64,192	83,821	255	148,268	128,865	151,521	9,290
Hawaii.....	21,852	22,019	—	43,871	8,257	13,067	—
Idaho.....	22,899	30,498	—	53,397	20,173	46,491	—
Illinois.....	551,300	956,553	3,107	1,510,960	768,901	34,271	1,652
Indiana.....	142,902	330,025	—	608,416	284,164	342,836	—
Iowa.....	183,952	154,922	868	339,742	167,447	174,291	968
Kansas.....	134,422	255,606	1,363	440,921	226,054	280,625	1,363
Kentucky.....	189,408	109,911	590	299,909	135,444	112,629	5,887
Louisiana.....	67,013	185,280	103,851	478,639	291,454	238,220	114,987
Maine.....	—	24,169	—	24,169	69,763	26,529	114,179
Maryland.....	68,982	56,831	—	125,793	69,817	60,611	—
Massachusetts.....	96,804	108,359	—	204,163	117,830	126,351	1,594
Michigan.....	306,813	244,561	7,236	558,610	331,134	267,458	242,506
Minnesota.....	61,149	116,547	1,820	280,077	135,264	122,427	20,767
Mississippi.....	—	48,965	1,695	50,660	71,866	48,630	3,125
Montana.....	—	—	—	—	—	—	—
Nebraska.....	—	—	—	—	—	—	—
Nevada.....	—	—	—	—	—	—	—
New Hampshire.....	—	—	—	—	—	—	—
New Jersey.....	—	—	—	—	—	—	—
New Mexico.....	—	—	—	—	—	—	—
New York.....	—	—	—	—	—	—	—
North Carolina.....	—	—	—	—	—	—	—
North Dakota.....	—	—	—	—	—	—	—
Ohio.....	—	—	—	—	—	—	—
Oklahoma.....	—	—	—	—	—	—	—
Oregon.....	—	—	—	—	—	—	—
Rhode Island.....	—	—	—	—	—	—	—
South Carolina.....	—	—	—	—	—	—	—
South Dakota.....	—	—	—	—	—	—	—
Tennessee.....	—	—	—	—	—	—	—
Texas.....	—	—	—	—	—	—	—
Utah.....	—	—	—	—	—	—	—
Vermont.....	—	—	—	—	—	—	—
Virginia.....	—	—	—	—	—	—	—
Washington.....	—	—	—	—	—	—	—
West Virginia.....	—	—	—	—	—	—	—
Wisconsin.....	—	—	—	—	—	—	—
Wyoming.....	—	—	—	—	—	—	—
Total.....	—	—	—	—	—	—	—





TABLE 22.--TELEVISION STATIONS--CHARGES FOR NONNETWORK POLITICAL BROADCASTS IN PRIMARY CAMPAIGNS, 1972

	For offices of, President and Vice President, U.S. Senator, U.S. Representative, State Governor and Lieutenant Governor				Total of all offices <sup>1</sup>			
	Democrat		Republican		Democrat		Republican	
	Other	Total	Other	Total	Other	Total	Other	Total
Alabama.....	\$172,270	\$55,193	.....	\$227,463	\$286,861	\$55,925	\$11,630	\$352,816
Alaska.....	37,676	3,998	.....	41,674	7,477	6,792	18,731	15,009
Arizona.....	191,809	14,563	.....	206,372	59,155	45,984	3,318	115,458
Arkansas.....	555,306	.....	.....	555,306	278,730	.....	3,608	282,338
California.....	42,405	39,109	.....	81,514	473,636	53,755	156,539	200,294
Colorado.....	.....	2,619	.....	2,619	42,895	7,983	.....	50,878
Connecticut.....	.....	3,920	.....	3,920	.....	2,920	.....	2,920
Delaware.....	.....	2,843	.....	2,843	.....	.....	.....	2,843
District of Columbia.....	1,585	.....	.....	1,585	1,757	.....	1,687	3,444
Florida.....	589,558	10,596	.....	600,154	881,270	63,032	269,899	1,554,160
Georgia.....	347,426	.....	.....	347,426	464,446	78,985	9,618	553,049
Hawaii.....	.....	51	.....	51	.....	1,482	.....	1,482
Idaho.....	8,783	4,052	.....	12,835	6,447	16,583	.....	23,030
Illinois.....	11,355	42,589	.....	53,944	11,855	43,586	32	55,437
Indiana.....	378,374	44,236	.....	422,610	426,075	67,976	730	494,051
Iowa.....	36,519	46,782	.....	83,301	45,613	49,789	1,566	95,398
Kansas.....	8,315	.....	.....	8,315	10,248	11,425	92	21,736
Kentucky.....	.....	124,405	.....	124,405	2,729	3,215	1,645	143,049
Louisiana.....	31,212	73,577	.....	104,789	3,731	73,577	.....	107,366
Maine.....	186,488	.....	.....	186,488	1,125,142	4,155	800	1,910,185
Maryland.....	13,843	16,789	.....	30,632	41,464	18,917	.....	49,549
Massachusetts.....	39,850	30,612	.....	70,462	41,464	3,418	490	74,370
Michigan.....	127,697	43,360	.....	171,057	146,082	13,517	174	184,743
Minnesota.....	126,576	12,828	.....	139,404	156,082	13,517	45,444	199,079
Mississippi.....	.....	.....	.....	.....	8,062	.....	5,406	13,468
Missouri.....	.....	.....	.....	.....	.....	.....	.....	.....

New Hampshire.....	15,397	4,163	13,373	15,397	4,353	20,173
New Jersey.....	74,371	7,315	81,593	84,340	7,403	91,743
New Mexico.....	102,157	14,795	116,953	110,097	15,174	125,271
New York.....	994,193	144,809	1,139,002	1,089,843	147,712	1,237,555
North Carolina.....	104,897	3,370	108,267	113,362	27,555	140,917
North Dakota.....	95,577	60,199	155,741	177,205	14,355	191,560
Ohio.....	40,332	3,982	44,264	45,362	62,443	107,805
Oklahoma.....	46,981	24,445	73,426	61,104	25,647	86,753
Pennsylvania.....	11,371	11,371	11,371	11,455	27,583	38,958
Puerto Rico.....	37,342	37,342	37,342	177,524	586	185,352
Rhode Island.....	2,544	74,442	77,006	77,524	74,743	151,767
South Carolina.....	70,754	79,215	152,139	107,122	82,278	189,400
South Dakota.....	1,462,282	205,546	1,607,738	2,137,468	234,115	2,371,583
Tennessee.....	321	7,842	8,163	3,179	5,922	9,101
Texas.....	321	321	321	530	17,531	18,061
Utah.....	3,105	14,145	17,250	15,330	2,185	17,515
Vermont.....	55,852	6,878	62,730	85,439	15,780	101,219
Virgin Islands.....	72,252	51,479	123,731	113,021	73,086	186,107
Virginia.....	327,213	7,363	372,592	323,050	52,044	375,094
Washington.....				75	7,882	7,957
West Virginia.....						
Wisconsin.....						
Wyoming.....						
Total, United States.....	7,052,408	1,364,369	8,420,010	10,088,618	1,823,990	12,584,008

\* Includes all local, State, and national elective offices. Figures for State and local offices other than Governor and Lieutenant Governor are necessarily classified by State of station rather than State of candidacy. This was done to simplify reporting requirements.

TABLE 29.—RADIO STATIONS—CHARGES FOR NONNETWORK POLITICAL BROADCASTS IN GENERAL CAMPAIGNS, 1972

	For offices of President and Vice President, U.S. Senator, U.S. Representative, State Governor and Lieutenant Governor				Total of all offices		
	Democrat	Republican	Other	Total	Democrat	Republican	Other
Alabama.....	\$49,420	\$43,767	\$2,766	\$95,953	\$102,651	\$58,683	\$18,331
Alaska.....	9,483	15,548	32,978	58,020	43,854	48,528	38,283
Arizona.....	13,468	17,835	1,164	32,468	46,231	52,507	10,859
Arkansas.....	19,131	4,843	1,700	25,674	38,749	22,107	9,659
California.....	282,853	225,276	8,020	516,150	362,739	386,980	105,767
Colorado.....	42,468	35,837	2,488	80,793	73,311	62,990	9,617
Connecticut.....	54,114	27,294	1,541	82,949	73,817	46,102	5,157
Delaware.....	31,632	31,853	1,864	64,349	44,719	54,354	1,116
District of Columbia.....	17,523	7,496	1,681	26,700	19,302	11,637	2,155
Florida.....	38,890	22,827	1,152	62,869	212,404	172,979	44,056
Georgia.....	39,916	30,779	54	70,749	94,008	78,028	18,976
Hawaii.....	364	2,020	2,864	5,248	2,900	3,644	6,553
Idaho.....	15,383	6,088	22,271	43,742	54,499	33,829	88,479
Illinois.....	12,415	12,947	1,079	26,441	26,162	30,292	1,967
Indiana.....	132,623	190,492	3,004	326,119	298,884	441,217	8,209
Iowa.....	183,213	132,783	837	316,833	165,105	194,724	24,851
Kansas.....	58,890	64,463	266	123,619	102,637	114,598	4,177
Kentucky.....	44,547	29,174	971	74,692	84,263	68,945	1,424
Louisiana.....	80,579	53,650	1,176	135,405	85,726	58,001	9,295
Maine.....	50,807	28,508	7,310	86,625	101,683	50,178	11,704
Marine.....	22	28,508	7,310	35,840	49,888	18,862	11,756
Total.....	\$179,665	\$186,645	\$109,597	\$475,907	\$179,665	\$186,645	\$109,597

Mississippi	51,933	33,859	1,342	87,134	64,650	34,578	1,773	101,101
Missouri	150,958	118,520	1,120	259,598	221,753	200,271	2,506	427,630
Montana	37,032	19,414	467	56,913	56,337	42,044	5,793	104,674
Nebraska	7,514	19,272	-----	26,785	12,414	26,450	44,418	83,282
Nevada	6,645	6,916	-----	13,561	15,644	16,150	4,269	36,063
New Hampshire	89,973	18,976	7,802	66,551	43,229	22,473	8,101	73,003
New Jersey	57,429	42,747	9,012	103,188	65,473	78,017	22,422	185,912
New Mexico	22,021	18,254	1,715	41,690	53,743	46,613	6,819	107,175
New York	272,652	154,403	15,319	442,374	433,414	398,204	47,320	878,938
North Carolina	77,798	61,593	1,238	140,526	139,143	111,746	4,968	254,916
North Dakota	8,295	16,437	1,323	25,055	17,266	23,544	7,133	52,145
Ohio	115,921	57,724	4,326	177,971	323,301	253,544	29,367	616,212
Oklahoma	25,139	31,620	928	57,687	52,838	64,527	1,797	119,262
Oregon	25,944	12,050	1,213	43,216	78,150	56,978	25,488	160,916
Pennsylvania	141,275	58,597	5,211	205,073	264,235	175,158	7,087	446,480
Puerto Rico	118,738	231,633	23,602	376,224	296,773	453,823	632,137	1,365,739
Rhode Island	54,951	40,172	1,719	96,799	74,773	61,789	632,613	137,175
South Carolina	25,828	27,600	-----	55,147	91,077	86,193	7,210	184,480
South Dakota	25,856	23,383	-----	49,239	36,177	36,710	6,345	79,182
Tennessee	59,599	45,666	2,372	107,637	119,448	123,502	42,512	285,462
Texas	227,162	193,331	8,348	428,814	329,779	280,816	20,804	631,359
Texas	20,711	10,699	1,065	31,556	37,985	22,110	1,583	61,678
Utah	8,072	7,492	479	16,042	13,270	12,616	1,141	27,027
Vermont	590	42	-----	622	2,972	2,676	14,550	20,198
Virgin Islands	73,375	120,015	4,055	197,445	23,889	128,701	17,369	230,079
Virginia	85,027	47,819	4,791	137,637	143,907	103,053	18,505	265,545
Washington	89,013	51,430	-----	140,443	133,209	95,474	2,949	231,532
West Virginia	62,174	24,171	2,541	88,886	120,513	88,949	13,047	222,409
Wisconsin	5,136	12,405	111	17,652	11,258	24,642	1,818	37,718
Wyoming	-----	-----	-----	-----	-----	-----	-----	-----
Total, United States	3,404,695	2,621,179	153,806	6,379,782	5,563,802	5,509,867	1,546,777	13,020,546

\* Includes all local, State, and national elective offices. Figures for State and local offices other than Governor and Lieutenant Governor are necessarily classified by State of station rather than State of candidacy. This was done to simplify reporting requirements.

TABLE 30.—RADIO STATIONS—CHARGES FOR NONNETWORK POLITICAL BROADCASTS IN PRIMARY CAMPAIGNS, 1972

	For offices of President and Vice President, U.S. Senator, U.S. Representative, State Governor and Lieutenant Governor				Total of all offices <sup>1</sup>		
	Democrat	Republican	Other	Total	Democrat	Republican	Other
Alabama.....	\$91,432	\$17,533	396	\$99,066	\$270,389	\$20,662	\$14,560
Alaska.....	8,244	9,257	241	17,742	28,147	16,314	15,837
Arizona.....	17,912	2,720	15	20,647	54,044	22,171	1,963
Arkansas.....	72,921	47	555	73,523	190,385	1,938	3,223
California.....	232,587	26,689	—	259,256	268,805	51,760	3,366
Colorado.....	20,118	1,846	30	21,994	28,614	9,724	117,686
Connecticut.....	638	1,296	—	1,844	10,321	1,661	—
Delaware.....	3,226	19,884	—	23,110	6,534	21,644	96
District of Columbia.....	8,881	—	—	8,881	10,026	—	—
Florida.....	213,281	18,719	—	231,980	762,468	82,620	251,129
Georgia.....	96,641	1,547	—	98,188	391,712	18,671	1,785
Hawaii.....	6,159	58	—	6,217	3,039	141	—
Idaho.....	11,885	3,653	—	15,538	51,545	14,616	23
Illinois.....	79,698	25,813	—	105,511	16,106	37,000	266
Indiana.....	27,123	10,215	45	37,383	124,511	78,819	4,289
Iowa.....	6,368	7,602	186	8,156	56,135	25,304	5,013
Kansas.....	1,973	12,390	—	14,363	16,243	35,434	844
Kentucky.....	9,317	39,412	—	48,729	8,418	62,928	185
Louisiana.....	63,196	10,877	—	74,073	12,594	12,815	26,721
Maine.....	2,310	3,928	20	6,258	409,379	6,886	1,322
Maryland.....	59,138	4,273	—	63,411	5,598	11,334	2,973
Massachusetts.....	104,556	21,141	—	125,697	67,938	1,203	18,135
Michigan.....	42,978	20,471	1,323	64,772	172,655	4,282	3,613
Minnesota.....	8,585	20,471	1,509	29,565	26,744	11,080	210,679
		755	19	10,369	109,106	22,876	209,143
					13,546	5,323	25,647
							44,516

Mississippi	112,356	4,757	34	117,147	126,557	5,309	687	132,563
Missouri	94,394	30,235	-----	124,627	170,894	59,760	1,812	231,656
Maryland	14,331	4,576	-----	18,907	18,771	7,314	1,726	27,811
Nebraska	57,747	1,836	-----	54,683	35,264	6,336	18,959	61,559
Nevada	5,489	-----	-----	5,489	11,314	1,823	3,037	16,174
New Hampshire	99,994	56,059	-----	156,043	103,935	61,323	63	164,418
New Jersey	45,436	2,180	-----	47,616	50,656	9,721	228	60,778
New Mexico	36,365	2,937	-----	42,303	74,850	11,476	2,980	89,778
New York	48,121	13,530	-----	64,258	89,850	46,134	10,253	156,247
North Carolina	304,370	53,134	2,608	358,094	422,821	44,730	6,036	473,597
North Dakota	102,127	11,721	-----	113,848	161,100	20,943	1,864	23,086
Ohio	43,897	9,946	-----	104,843	146,590	43,926	4,857	208,981
Oregon	26,885	7,270	-----	53,743	146,590	30,764	4,535	181,789
Pennsylvania	26,885	7,270	54	34,249	50,336	22,640	26,570	99,546
Puerto Rico	91,123	41,968	-----	133,091	135,400	71,227	1,190	206,817
Rhode Island	4,135	145	48	4,278	14,458	12,926	12,870	39,657
South Carolina	10,709	177	143	4,278	5,870	3,376	643	6,531
Tennessee	40,127	967	197	11,083	173,479	3,376	353	177,211
Texas	629,289	28,978	64	41,158	114,507	33,306	24,552	172,369
Utah	1,833	6,273	346	668,613	1,330,932	51,571	12,730	1,395,233
Vermont	418	9,164	-----	8,108	2,077	18,307	274	16,444
Virgin Islands	1,690	1,164	54	1,636	4,734	18,325	594	20,868
Virginia	4,934	1,723	-----	7,657	6,921	4,256	8,289	13,318
Washington	50,400	28,921	241	79,682	192,203	46,801	33,614	182,478
West Virginia	37,545	38,214	-----	38,214	129,227	18,903	3,427	153,561
Wisconsin	154,448	1,000	7	165,456	164,786	28,023	21,075	231,365
Wyoming	29	4,564	-----	4,603	906	9,837	943	11,586
Total, United States	3,180,612	621,841	7,879	3,810,332	6,726,204	1,410,755	687,685	8,824,554

<sup>1</sup> Includes all local, State, and National elective offices. Figures for State and local offices other than Governor and Lieutenant Governor are necessarily classified by State of station rather than State of candidacy. This was done to simplify reporting requirements.

TABLE 31.—CABLE TELEVISION SYSTEM—CHARGES FOR NONNETWORK POLITICAL BROADCASTS IN GENERAL CAMPAIGNS 1972

	For offices of: President and Vice President, U.S. Senator, U.S. Representative, State Governor and Lieutenant Governor				Total of all offices <sup>1</sup>			
	Democrat	Republican	Other	Total	Democrat	Republican	Other	Total
Alabama.....	363	575		\$1,418	\$140	\$16	\$74	\$239
Alaska.....					1,100	1,233		2,333
Arizona.....	24	24		48	346	232		578
Arkansas.....	35	47		82	932	87	50	2,289
California.....	408	12	\$100	920	575	462	224	1,261
Colorado.....								
Connecticut.....								
Delaware.....								
District of Columbia.....								
Florida.....	100			100	1,585	1,548	87	3,240
Georgia.....	614			614	502	1,170		672
Hawaii.....					1,622	1,280	4,054	6,956
Idaho.....					135	30		225
Illinois.....	130	116		246	673	758		1,431
Indiana.....					390	440		830
Iowa.....	18	18		36	58	110	21	189
Kansas.....					123	259		382
Kentucky.....					25	25		50
Louisiana.....								
Maine.....					61	178		239
Maryland.....								
Massachusetts.....					100			100
Michigan.....		250		250	84	1,037	138	1,249
Minnesota.....						72	200	272
Mississippi.....								

Missouri					173	100		273
Montana					571	702		1,273
Nebraska	24			24	24			24
Nevada	17	50		67	23	75		96
New Hampshire	327			327	1,104	2,020	550	3,674
New Jersey	85	40		125	49	85		114
New Mexico	680	718		1,408	1,473	7,875	1,178	10,926
New York								
North Carolina								
North Dakota	400	95		495	15	1,569	20	35
Ohio								
Oklahoma					2,520		248	4,337
Oregon								
Pennsylvania	200	80	20	280	477	367	213	213
Puerto Rico								844
Rhode Island								
South Carolina								
South Dakota	1,456	147		1,603	1,757	784		2,541
Tennessee					115	100		215
Texas	1	1		2	1	26	152	179
Utah								
Vermont								
Virgin Islands								
Virginia	187	130	50	317	177	201	50	50
Washington	724	31		755	2,486	953	30	806
West Virginia					180	37		3,339
Wisconsin					196	360		187
Wyoming	80	140		220	196			516
Total United States	6,160	2,624	170	8,954	18,551	23,339	7,298	50,189

<sup>1</sup> Includes all local, State, and national elective offices. Figures for State and local offices other than Governor and Lt. Governor are necessarily classified by State of station rather than State of candidacy. This was done to simplify reporting requirements.



TABLE 32.—CABLE TELEVISION SYSTEMS—CHARGES FOR NONNETWORK POLITICAL BROADCASTS IN PRIMARY CAMPAIGNS, 1972

	For offices of President and Vice President, U.S. Senator, U.S. Representative, State Governor and Lieutenant Governor				Total of all offices:		
	Democrat	Republican	Other	Total	Democrat	Republican	Other
Alabama.....	573			573	3633	327	
Alaska.....	257	\$121		446	367	181	
Arizona.....						64	
Arkansas.....	25			25	202		\$40
California.....	10	170		180	1,516	178	5,325
Colorado.....					50		
Connecticut.....							
Delaware.....							
District of Columbia.....							
Florida.....	75			75	3,280	1,004	1,778
Georgia.....					1,009		
Hawaii.....					1,116	26	
Idaho.....	27			27	132		
Illinois.....					51	65	
Indiana.....					50		
Iowa.....						36	
Kansas.....						107	
Kentucky.....							
Louisiana.....					406		
Maine.....							
Maryland.....							
Massachusetts.....					60		
Michigan.....					12	80	139
Minnesota.....							
Mississippi.....							
Missouri.....							
Montana.....							
Nebraska.....							
Nevada.....							
New Hampshire.....							
New Jersey.....							
New Mexico.....							
New York.....							
North Carolina.....							
North Dakota.....							
Ohio.....							
Oklahoma.....							
Oregon.....							
Rhode Island.....							
South Carolina.....							
South Dakota.....							
Tennessee.....							
Texas.....							
Utah.....							
Vermont.....							
Virginia.....							
Washington.....							
West Virginia.....							
Wisconsin.....							
Wyoming.....							

Missouri	37	72	109	62	307	369
Montana				68	30	88
Nebraska		58	50		50	50
Nevada						
New Hampshire					38	38
New Jersey	200		200	200		200
New Mexico	36	150	180	30	150	180
New York						
North Carolina						
North Dakota						
Ohio	286	180	368	524	535	1,059
Oklahoma				349		349
Oregon					40	40
Pennsylvania						
Puerto Rico						
Rhode Island						
South Carolina	75		75	225		225
South Dakota	150	440	610	150	460	645
Tennessee						
Texas	323		123	1,196		1,196
Utah						
Vermont						
Virgin Islands						
Virginia						
Washington	54		54	141	65	226
West Virginia				1,264	36	1,343
Wisconsin	5		5	35	20	55
Wyoming						
Total, United States	1,417	1,243	2,660	13,247	3,509	24,177

<sup>1</sup> Includes all local, State, and National elective offices. Figures for State and local offices other than Governor, and Lieutenant Governor, are necessarily classified by State of station rather than State of candidacy. This was done to simplify reporting requirements.

## STATEMENT OF THE COMMUNICATIONS WORKERS OF AMERICA

The Communications Workers of America endorses the objectives of S. 372 which would provide a method for broadcast debates between the major candidates for President and Vice President, and also limit the amount of spending in Federal election campaigns.

CWA has sought legislation which would facilitate debates between the major candidates since the Kennedy-Nixon debates proved that they have a tremendous educational value for the electorate.

The union supported a method other than revision of section 315 of the Communications Act of 1934—we urged the Congress to require the broadcasters to allot certain free-time hours in the weeks before election.

Congress, however, leaned toward the suspension of S. 315, and when it became obvious that not enough support could be generated for our proposal, we enthusiastically supported the S. 315 alternative.

We endorse it again, at this time, because we believe that if Congress should enact a provision facilitating debates between the major candidates the benefits to the electorate would become even more apparent, and a climate to covert the action on S. 315 into a free-time structure for debates and also for presentation of views on issues, would develop.

We would like to ask permission to include with this statement part of the testimony of Joseph A. Beirne, president of the Communications Workers of America, which was given before the committee in 1969, a draft of our suggested bill, an explanation of the bill, and our executive board statement on Presidential debates.

Although the Federal Election Campaign Act of 1971 moved in the proper direction concerning campaign spending, we believe that more needs to be done.

Individual contributions should certainly be limited. Despite the exaggerations and distortions of the enemies of the labor movement, funds which can be given to candidates for campaign use are raised voluntarily from union members, and the most frequently received donation is a single dollar.

Meanwhile, the events of 1972 have shown us that individuals can give hundreds of thousands of dollars, and that some individual contributions run into the millions.

There should be a limit on individual contributions.

Congress should also seriously consider setting a total limit on the amount of money that a candidate could spend to run for a Federal office. We realize that there are some complicated issues to be decided before the limit could be implemented, and that campaign costs can vary greatly from State to State, but this does not mean that Congress should not go into the problem, and try to develop a solution. If it can, campaigns and the election process will benefit.

CWA wants to commend Senator John Pastore for his long devotion and leadership in the fight to bring about debates and improve the election process. His cause merits our support and the support of all organizations seeking to strengthen the fabric that holds the Nation together.

## DRAFT BILL

S. \_\_\_\_\_

## IN THE SENATE OF THE UNITED STATES

Mr. \_\_\_\_\_ introduced the following bill, which was read twice and referred to the Committee on Commerce

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A BILL

To provide for the use of television broadcasting facilities by candidates for the Offices of President and Vice President of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Presidential Campaign Broadcasting Act."*

SEC. 2. (a) It shall be the obligation of each television broadcasting station licensed under the Communications Act of 1934 and each television network to make available without charge the use of its facilities as hereinafter provided to each candidate for the offices of President and Vice President of the United States who shall have been qualified by applicable State law to appear on the ballots of at least thirty-five of the several States. For the purpose of the preceding sentence, the District of Columbia shall be considered a State. Nothing in the foregoing shall be construed as relieving broadcasters from the obligation imposed upon them under the Communications Act of 1934 to operate in the public interest.

(b) Each candidate for President eligible under subsection (a) shall be entitled, in the eight weeks preceding election of any year in which a presidential election is being held to two hours of prime broadcast time for his own personal appearance and the (right) (opportunity) to participate in a total of five hours of direct confrontation with all other candidates for the office of President, as qualified under subsection (a).

(c) Each candidate for Vice President eligible under subsection (a) shall be entitled, in the eight weeks preceding election of any year in which a presidential election is being held to one hour of prime broadcast time for his own personal appearance and the (right) (opportunity) to participate in a total of two hours of direct confrontation with all other candidates for the office of Vice President, as qualified under subsection (a).

(d) The broadcast time to which eligible candidates for the office of President are entitled under subsection (b) shall be provided in prime viewing hours, and shall be scheduled in programs of one hour each, equally divided, without intervening commercial material, one hour of which shall be presented on the Monday next preceding the day of election.

(e) The Federal Communications Commission shall cooperate in making the necessary arrangements for carrying out the provisions of this Act with representatives of the candidates for the office of President, the broadcasting networks, and the public.

(f) There shall be created a "Presidential Candidates' Joint Appearances Coordinating Committee" to take charge of all arrangements necessary to carry out the purposes of this Act. The Chairman of the Federal Communications Commission shall be Chairman of the Committee created by this subsection. The Committee shall also consist of one representative of each nominee for the office of President; one representative of each broadcasting network; and one representative of the public, to be elected by the other members of the Committee; *Provided*, that the Committee shall not be precluded from meeting and carrying out its assigned tasks due to inability to secure membership or attendance from among the parties entitled by this subsection to serve thereon.

(g) The Committee created by subsection (f) shall begin to meet no later than August 31 of each year in which an election for the offices of President and Vice President are to be held. Said Committee shall meet as often as necessary, at the call of the Chairman, during the period preceding election, to insure that the purpose of this Act shall be carried out.

(h) All arrangements for joint appearances of candidates for the offices of President and Vice President shall provide that broadcast time made available under this Act shall to the extent possible be simultaneous in each time zone of the Nation.

(i) In the event that a candidate for the office of President or Vice President shall fail to take advantage of his (right) (opportunity) to participate in any joint appearance scheduled by the Committee created by subsection (f), the individual or joint appearance(s) of the remaining candidate(s) shall be permitted. The Committee shall be empowered to amend the format of any scheduled program in the event of such failure to participate in a joint appearance.

(j) No station or network shall be held responsible for the non-fulfillment of any contract heretofore or hereafter made because of its inability to carry out such contract by reason of the obligations imposed upon such station or network under this Act.

SEC. 3. A station or network shall have no power of censorship over material broadcast under the provisions of this Act.

SEC. 4. (a) The Federal Communications Commission shall make rules and regulations to carry out the provisions of this Act, including requirements for each station or network to report to the Commission, in such a form and manner and at such times as the rules and regulations may prescribe, with respect to use of its facilities pursuant to the provisions of this Act.

(b) In determining whether public interest, convenience, and necessity will be served by the granting of a renewal of a license for the operation of a broadcasting station, the Commission shall give due consideration to the reports with respect to compliance with the provisions of this Act submitted to the Commission pursuant to subsection (a) of this section.

SEC. 5. The provisions of section 315 of the Communications Act of 1934 (47 U.S.C. 315) shall not apply in the case of the use of facilities without charge under the provisions of this Act.

SEC. 6. There is hereby authorized the appropriation from the Treasury of such sums as shall be necessary to carry out the purposes of this Act, not to exceed \$50,000.

**EXPLANATION OF PROPOSED LEGISLATION FOR TELEVISION DEBATES  
OF PRESIDENTIAL AND VICE-PRESIDENTIAL CANDIDATES**

This draft bill was adapted from the language of S. 3171 of the 86th Congress, introduced in 1960 by Senator Warren G. Magnuson. The draft bill for discussion of concepts was prepared by the staff of the Communications Workers of America.

The section-by-section analysis follows:

Section 1. The act, to be cited as the "Presidential Campaign Broadcasting Act," provides for the use of television broadcasting facilities by candidates for the offices of President and Vice President of the United States.

Section 2.(a) The act imposes a positive obligation on each television broadcasting station and network to make free time available to qualified candidates for President and Vice President. A candidate who is "qualified" is one whose name, under appropriate State law, appears on the ballots of at least 35 States. Existing requirements under the Communications Act of 1934 remain in force. This obligation exists in the 8-week period preceding any Presidential election.

(b) Each Presidential candidate is entitled to 2 hours of free time for his own personal appearance and the right to appear on a total of 5 hours of debates with the other qualified candidates for President.

(c) Each Vice Presidential candidate is entitled to 1 hour of free time for his own personal appearance and the right to appear on a total of 2 hours of debates with the other qualified candidates for Vice President.

(d) Broadcast time afforded the candidates for President under subsection 2(b) shall be in 1-hour segments in prime viewing time, with 1 hour of that time the Monday night preceding the election. No commercials are authorized in the 60-minute periods for candidates' use or debates.

(e) The Federal Communications Commission shall cooperate in the necessary arrangements for use of broadcast facilities under this act with parties representing the Presidential candidates, the broadcasting networks, and the public.

(f) A "Presidential Candidates' Joint Appearances Coordinating Committee" shall be established to take charge of the arrangements. The FCC chairman shall be chairman of the committee established under this subsection. Other members are one representative of each Presidential candidate, one representative of each network, and one "public" representative, to be elected by the other members of the committee. This subsection includes a proviso to enable the committee to function in the event that there is inability to secure membership or attendance from among the parties entitled to serve on the committee.

(g) The committee established in subsection 2(f) shall begin to meet by August 31 of each Presidential election year, and as often as necessary, at the call of the chairman.

(h) Broadcast time made available for candidates for President and Vice President shall be simultaneous in each zone of the Nation,

to the maximum possible extent. This requirement follows standard network broadcasting practice.

(i) A candidate for President or Vice President who chooses not to appear on debate programs with the other candidates for the same office shall not be able to prevent the remaining candidate or candidates from appearing at the prescribed time. The committee is empowered to amend as necessary in the event of failure of any party to enter a debate.

(j) No station or network shall be penalized for inability to fulfill contractual obligations, such as for advertising, when such inability is due to the conditions imposed by this act in the 8-week period preceding election.

Section 3. Stations and networks shall have no power of censorship over program content.

Section 4. (a) FCC is directed to make necessary rules and regulations to insure this act is executed. Reports shall be required of broadcasting stations and networks.

(b) FCC is directed to give due consideration of individual station performance in carrying out provisions of this act when the station's operating license is due for renewal.

Section 5. Provisions of section 315 of the Communications Act of 1934 shall not apply in the use of free time by qualified candidates for President and Vice President.

Section 6. Appropriations of up to \$50,000 are authorized to carry out the purposes of the act.

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#### COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO, EXECUTIVE BOARD STATEMENT, FEBRUARY 1969

##### TV DEBATES IN PRESIDENTIAL CAMPAIGNS

Free elections in a democratic society require the participation of an enlightened electorate. The "right to vote" can become almost meaningless unless it carries with it the "right to know." For the right to have the major national issues sharpened and clearly defined, and the right to have the candidates' position on those issues enunciated loud and clear are essential ingredients to intelligent voter judgment.

Since the Kennedy-Nixon debates of 1960, there has been an increasing interest in and growing demand for direct confrontation between or among the major Presidential candidates in every Presidential election campaign. The 1960 nationally televised debates brought clearly into public focus the essential value of enlightening the electorate through the vast coverage afforded by the major commercial TV and radio networks media. For through these confrontations the paramount issues facing the Nation were made clear and the rhetoric of the candidates stripped bare of evasions and equivocations. The voters were informed and enlightened, not subjected to the technique of a Madison Avenue sales pitch.

We are living in an electronic era where the impact of radio and TV has a tremendous effect upon every facet of our thinking processes. Its power to mold opinion and shape our lives is awesome in its potential. But properly used its potential for the good of society and for all of mankind is almost unlimited.

One of the more pressing needs in channeling the effects of the commercial TV and radio networks toward the common good is by providing the media through which the "right to know" concept can be fulfilled. These publicly owned, publicly licensed, but privately operated airwaves have access to virtually every American home and are tailor-made to inform and enlighten the voters. The very preservation of our cherished free election system demands that they be offered the opportunity to hear the Presidential candidates in a direct confrontation where they assess the vital national issues and tell where they stand on them and what they propose to do about them.

Prime TV and radio time is presently available only to those candidates who can afford its almost prohibitive costs. Even when they purchase time, most candidates present to the viewing voters a canned, well-rehearsed program deliberately designed to cast a favorable image instead of the substance. It amounts to the soft sell of a beautifully wrapped package that frequently bears little, if any, resemblance to its contents.

Our great Nation can ill afford to permit its election system to be reduced to the low level of selling the candidates as though they were deodorants or detergents. It is too precious a heritage to be sacrificed on the altar of expediency or political ambition.

The election of the President of the United States of America—the highest office in our land and the most influential in the world community—is too grave a responsibility for the voters to fulfill, unless they are given the facts from which an intelligent decision might be made.

The U.S. Congress in 1964, and again in 1968, debated the issue of waiving section 315 of the Communications Act of 1934 in order to provide the means for TV and radio confrontation of the candidates, but it took no affirmative action. Consequently, no debates.

Accordingly, the Communications Workers of America calls upon the 91st Congress to enact legislation requiring the major commercial TV and radio national networks to offer, without cost, 5 hours of prime time each election year for the purpose of direct confrontations between or among the candidates for the Office of President who appear on the ballot in at least two-thirds of the 50 States.

#### RESOLUTION 81A-69-22—PRESIDENTIAL NOMINEES DEBATES

Free elections in a democratic society require the participation of an enlightened electorate. The "right to vote" can become almost meaningless unless it carries with it the "right to know." The right to have the major national issues sharpened and clearly defined, and the right to have the candidates' position on those issues enunciated loud and clear, are essential ingredients to intelligent judgment.

Since the Kennedy-Nixon debates of 1960, there has been an increasing interest in and growing demand for direct confrontation of the major candidates in every Presidential election campaign. The 1960 nationally televised debates brought clearly into public focus the essential value of enlightening the electorate through the vast coverage afforded by the major commercial TV and radio networks.

It is estimated that the first 1960 debates were watched by 75 million persons in 27 million homes, the largest such audience up to that time.



For through these confrontations the paramount issues facing the Nation were made clear and the rhetoric of the candidates stripped bare of evasions and equivocations. The voters were informed and enlightened, not subjected to the technique of a Madison Avenue sales pitch.

We are living in an electronic era where the impact of radio and TV has a tremendous effect upon our thinking processes. Its power to mold opinion and shape our lives is awesome in its potential. But properly used, its potential for the good of society and for all of mankind is almost unlimited.

One of the more pressing needs in channeling the effects of the commercial TV and radio networks toward the common good is by providing in the media through which the "right to know" concept can be fulfilled. This publicly owned, publicly licensed media has access to virtually every American home and is tailor made to inform and enlighten the voters.

Prime TV and radio time is presently available only to those candidates who can afford its almost prohibitive costs. Even when they purchase time, most candidates present to the viewing voters a canned, well-rehearsed program deliberately designed to cast a favorable image. It amounts to a beautifully wrapped package that frequently bears little, if any, resemblance to its contents.

The election of the President of the United States of America is so grave a responsibility for the voters to fulfill, that they should be given the facts from which an intelligent decision might be made.

The U.S. Congress in 1964, and again in 1968, debated the issue of waiving section 315 (equal time provision) of the Communications Act of 1934, in order to provide the means for TV and radio confrontation of the candidates, but it took no affirmative action. Consequently, there were no debates.

CWA believes the public interest can best be served by bringing the candidates together—face to face—where the voters can see and hear them, and then appraise the merits of the candidates. Therefore, be it

*Resolved*, That the Communications Workers of America calls upon the 91st Congress to enact legislation to provide, without cost, adequate prime time each election year for the purpose of direct confrontation of the nominees for the office of the President, who appear on the ballot in at least 35 of the 50 States.

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STATEMENT OF JOSEPH A. BEIRNE, PRESIDENT, COMMUNICATIONS WORKERS OF AMERICA

Mr. Chairman, my name is Joseph A. Beirne. I am president of the Communications Workers of America, affiliated with the AFL-CIO, a union representing more than 450,000 workers employed in the communications field.

I am here today to testify in support of legislation to provide permanent authority for debates on free time of Presidential and Vice Presidential candidates over television. In furtherance of that goal, the Communications Workers of America 31st Annual Convention adopted a resolution asking for Presidential candidate debates, as the most effective means of informing the citizens of the qualifications of those nominated for the Nation's highest office.

For the committee's use, I would like to put into the record:

CWA Convention resolution 31A-69-22, entitled "Presidential Nominees Debates," adopted June 18, 1969.

CWA Executive Board statement, "TV Debates in Presidential Campaigns," adopted in February 1969.

Display advertisement, "This Is No Time for a Fractured Campaign," which appeared in 17 major daily newspapers and the CWA News during autumn 1969.

Draft language of a bill to provide broadcast time free of charge for debates and limited amount of personal appearances for the candidates for President and Vice President.

Section-by-section analysis of the language and intent of the draft bill.

The most important choice the American citizens make is their choice of a President. But unfortunately there has been only one time in recent history that the voters could be properly informed about the men who were presenting themselves for the office: in 1960.

What did we see in the 1960 Kennedy-Nixon debates? We saw the candidates themselves without hoopla, in a direct face-to-face confrontation, discussing the real questions of national policy. There were no balloons, no phony barriers between the candidates and the people. This is needed again, in every single future Presidential campaign. Each candidate, whether incumbent or challenger, should be in the white hot glare of public exposure, to show his fitness for the office.

Any future Presidential campaign should have both Presidential and Vice Presidential candidates appearing in debates. The November 1963 assassination of John F. Kennedy proved once again that the person selected for Vice President is highly important—far more important than to "balance the ticket" or to give recognition to some regional or ethnic considerations. The framers of the Constitution provided that the Vice President must possess the same qualifications as the President, in order that he might fulfill the responsibilities of the office if needed. And on eight occasions in our history, the duly chosen Vice President has been required to lead the Nation after the death of the President. This is 8 out of 37 Presidents—or 21 percent.

We must have the freest possible access to information about those who would become the official spokesmen for the American people. There must be the clash of ideas on the hard questions. I hope never to have to see another Presidential campaign with staged "panel shows" and thousands of balloons and "straw men" and even appeals to raw bigotry.

There is simply no valid reason—one that makes any sense at all—for avoiding debates. I say this irrespective of the situation in any given election, whether the incumbent President is the man of my choice or not. We should dismiss as without any validity the canard that an incumbent President should not debate because some "security-sensitive" information just "might" be blurted out over the airwaves. The simple fact is that each candidate now gets high-level intelligence briefings so as to avoid precisely this danger. And it has to be proven that any man nominated by any of the non-Communist political parties would be so irresponsible as to instantly declassify information on his own initiative. If a candidate is a security risk, we had better know about it before the election, not afterward, when he has the power to do damage to the Nation.

The American people are choosing a President, not a detergent, or toothpaste, or gasoline. The moral suasion of the entire American people, backed up by a sound public law, should be brought to bear against all Presidential and Vice Presidential candidates to get them to face each other on live television. By this means, the people can get the information they so urgently require to make their choices. We should reject another canard used as an excuse not to have debates: that one candidate may be a skilled debater who would outshine the other candidates. It would be irresponsible for any political party to nominate a pair of candidates who are not able to express themselves adequately or to defend their commitments and convictions and party platforms. The fact is that the nominating process is such an arduous process that only the fittest become the choice of the delegates to any given convention.

The American people have an absolute right to see the candidates facing each other, discussing the issues without extraneous or distracting factors getting in the way. And the candidates themselves—incumbent or not—have the obligation to debate each other and explain their positions clearly.

The 1960 Presidential debates were successful from every standpoint: the nominees were shown discussing the issues; the networks estimated, through their rating services, that up to 75 million persons were watching and listening to John F. Kennedy and Richard Nixon; the networks fulfilled their public service obligations in the best possible way.

In 1964, the Democratic Party was remiss; President Johnson did not debate Barry Goldwater. The entire Nation was the loser.

In 1968, the Republican Party and the American Independent Party were remiss; Richard Nixon and George Wallace refused to debate Hubert Humphrey. The entire Nation again was the loser.

The true reason for the absence of debates in those years is that some candidates substituted personal convenience for the public good, rationalizing that a candidate's choice is more important than a citizen's right.

The people own the airwaves. The broadcast spectrum is allocated with a public service obligation to private broadcasters as a public trust. Broadcasters pay an infinitesimal fee for their licenses to use the airwaves. The only logic that seems to apply is that the people, once each 4 years, are entitled to witness debates; the candidates and the broadcasters owe this to the citizens.

Three months ago, we watched hour after hour of live televised coverage of one of man's greatest feats of technology, sending men to the Moon and bringing them back. This live coverage of the Apollo 11 mission was exciting and interesting and illustrative of man's progress, but was a form of entertainment. I do not mean to belittle the space feat, but I want to point out that without that intimate televised coverage, the whole of space science still would have gone forward.

We cannot say the same about the country after a Presidential election. The Nation will go forward or backward, up or down, be at war or at peace primarily because of the one man at a time who is the President.

The man filling that mighty office is too important to be left to whims and packaging techniques of the Madison Avenue agencies.

The people are buying with their trust and their very existence 4 years of a President's service—a choice far more important than whether the citizen belongs to a "one-toothpaste family."

For discussion purposes, I have had prepared a draft bill to provide the needed permanent legislative authority for debates on a free time basis. This is included in the materials I submitted for the committee record. The proposal adheres to the guidelines laid down by the Communications Workers of America 1969 Convention, with modifications to provide also for joint appearances of Vice Presidential candidates, and a small amount of free time for individual appearances. The language of S. 3171, introduced in 1960 by Senator Warren G. Magnuson, was used as a starting point in drafting language.

The CWA position can be made clear by explanation of the ideas in the proposal in draft language.

A "candidate" is defined as a person standing for election to the office of President or Vice President who is on the ballots of at least 35 States. Anyone whose name is on at least 35 State ballots is either in a position to be elected President or Vice President, or to have a direct effect on the outcome of the election. This could be true whether the electoral college continues in existence or is abolished, under certain circumstances.

Five hours of prime time for direct confrontation, or debate, would be allowed the Presidential candidates in the 8-week period preceding the election. This debate time would be in 60-minute segments without commercials. The unwillingness of any candidate would not prevent the program scheduled from being shown; however, since program format would necessarily be amended, the bill provides the authority.

In addition, each Presidential candidate would be allowed 2 hours of prime time for his individual use.

One hour of debate time—the final hour—would be used the Monday night before election day by the candidates for President. In this hour, I would imagine that the major unresolved issues of the final week of the campaign would be capped off.

Each candidate for Vice President would be entitled to take part in 2 hours of debate involving other candidates for that office, and would have 1 hour for his individual use, all in prime time.

The draft bill calls for a "Presidential Candidates' Joint Appearances Committee," with the Chairman of the Federal Communications Commission serving ex officio as Committee Chairman. This Committee would be empowered to make all necessary arrangements for the joint appearances of the Presidential and Vice Presidential candidates. This Committee's members also would include one representative of each Presidential candidate, one representative from each broadcasting network, and one representative of the public at large, this last to be elected by the other members of the Committee. The proviso in the subsection establishing this Committee allows the Committee to function, even if any candidate decides not to cooperate. The reasoning behind this proviso is to place the citizen's right to see and hear debates above the personal whim or convenience of any candidate.

Mr. Chairman, the date of August 31 of a Presidential election year was selected as the only practical deadline. The major parties have held their nominating conventions as late as the final week of August

in previous election years. The campaign kickoff is generally considered to be Labor Day, which in most cases is eight or nine weeks before election day.

Because broadcasting follows the time zones, prime time made available to candidates should be in according with standard procedures.

The broadcasters should be given protection from liability which might occur under terms of this legislation. I refer to commitments that stations and networks may make for advertising messages and the like. This need cause no discomfort to any party now, 3 years and 2 weeks before the next Presidential election day. It is unlikely that any advertiser has as of this date locked into broadcast time in September and October 1972. In any event, the broadcaster is the fiduciary—the entrusted user—of the assigned broadcast frequency. The concepts of the public's ownership of the airwaves and of the citizen's rights as paramount have been stated and restated numerous times in court and FCC decisions. The FCC issues licenses in the name of the public.

In accord with section 315, the stations are to exercise no power of censorship or prior restraint on broadcast content. The broadcasters will have a voice in format and arrangements for the joint appearances of candidates, by reason of representation on the committee.

The Federal Communications Commission will be directed to make the needed rules and regulations for carrying out the purposes of the legislation. Reports on performance will be required of the stations and networks; the individual stations' reports will be taken into consideration when broadcasting licenses are due for renewal.

While we are at this point, let me stress that I am not at all in sympathy with indiscriminate challenges to broadcast licensees at renewal time. I am convinced that by and large the broadcasters try to serve their communities, and the Federal Communications Commission recognizes the broadcasters' good efforts. Logical and generally applicable requirements are the only valid criteria for judging whether a particular broadcaster is doing his job as he should. The Commission is the entity to which the Congress has delegated the power to make judgments. If a station is not serving its community properly, the Commission should work with the station to correct the situation. The rules and reasons should be understood, which means clear and practical guidelines.

The question might well be asked of me: "Why does this draft bill only require television stations and networks to carry the debates?"

The exclusion was not an oversight; it was a recognition of the sharply changed role of radio since the advent of television in the late 1940's. First, there is very little of what could be called "networking" on radio now; what little does exist normally is for network news.

Second, there is no clearly defined concept of "prime time" on radio, since television takes over the generally accepted meaning of the term, from 7 to 11 p.m.—some say until 10 p.m. Radio listening habits have changed.

Radio reaches those who are not watching TV, such as commuters driving to and from work, the housewives on shopping trips or at home, and some individuals at work.

In any event, the debates would be available to and probably would be carried by most of the radio stations in the Nation. It is unlikely that a major news event would be ignored by a medium capable of instantaneous transmission.

How much prime time is involved in this bill? If we assume prime time is 7 to 11 p.m., the total number of such hours is 224 in the 8-week period preceding election. Assuming the Democratic and Republican Parties are the only ones with "qualified" candidates, the total time required is 13 hours. If the American Independent Party or some other third party qualifies in 1972, then the total hours of prime time involved would be 16 hours.

This 16 hours certainly will work no hardship on the broadcasters. They pay virtually no license fee for the monopoly on their assigned frequencies. Simple justice should require some modest repayment of the obligation. Free broadcast time, not discount-price time, would effectively discharge the obligation.

The citizens of the Nation determine the priorities. The Presidential candidates enunciate the priorities, in national defense, foreign affairs, space exploration, education, urban problems, health, and on down the line.

Straight, unvarnished information about the candidates and their ideas of the priorities can be secured only with great difficulty if at all when the candidates are not made to face each other. The public deserves, and according to various public opinion polls, demands such meetings of the candidates.

















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